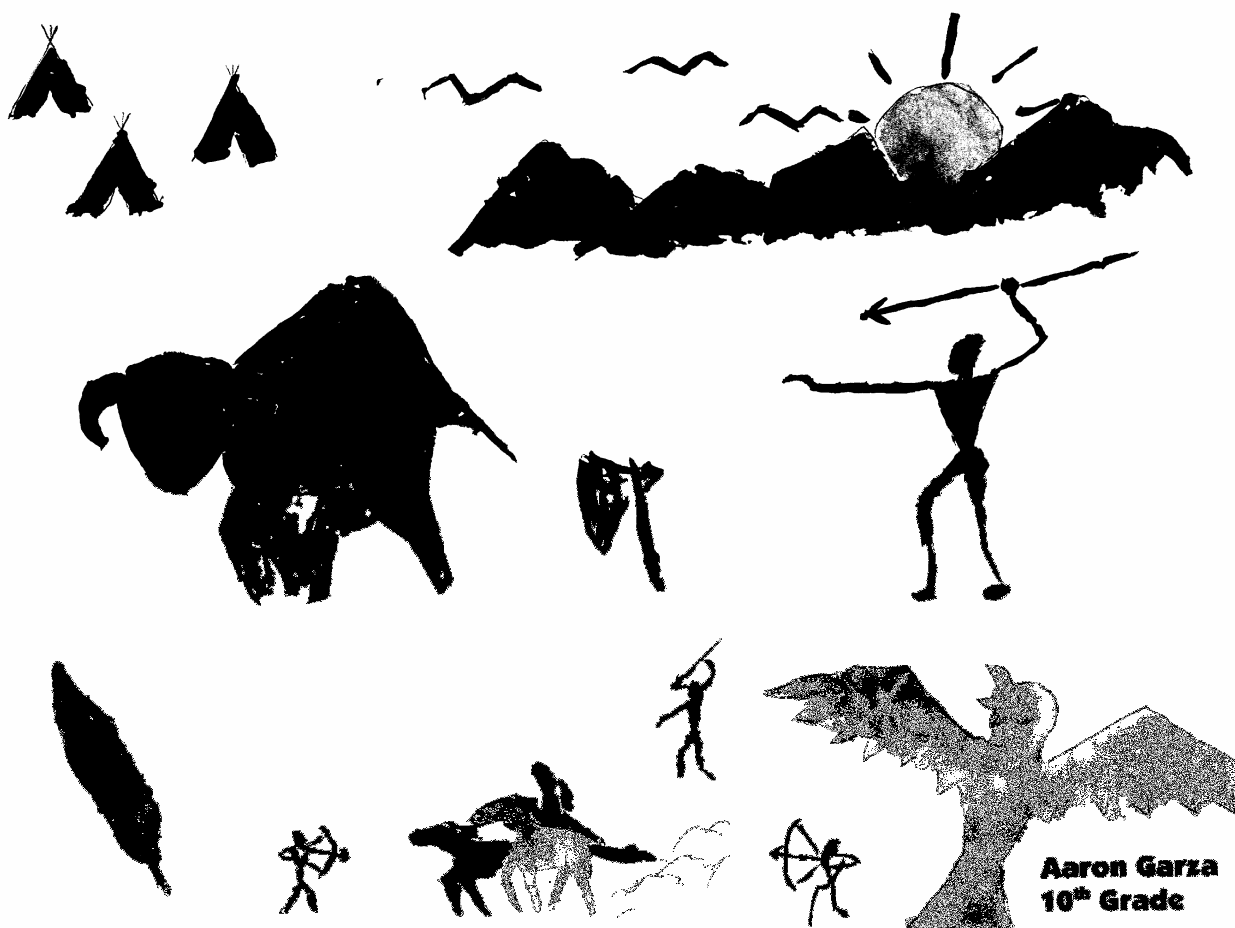

TEXAS REGISTER

Volume 31 Number 43

October 27, 2006

Pages 8783 - 8922



**Aaron Garza
10th Grade**

School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 463-5561 in Austin. For out-of-town callers our toll-free number is 800-226-7199. Or request a copy by email: register@sos.state.tx.us

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://www.oag.state.tx.us/opinopen/opengovt.shtml>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:
<http://www.state.tx.us/>

...

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Executive Order

RP 61

Relating to the creation, composition, and operation of the Governor's Health System Integrity Partnership for the State of Texas.

WHEREAS, the quality, safety, efficiency, and effectiveness of the health care system is of vital concern and interest to the State of Texas; and

WHEREAS, the use of secure and interoperable electronic health information systems will lead to increased efficiency and effectiveness by reducing redundant tests, supplying clinicians with information on cutting-edge clinical research, and ensuring that all participants in the health care system have the right information at the right time; and

WHEREAS, providing Texans with access to comprehensive cost and quality information will enable them to make informed decisions about their health care; and

WHEREAS, small businesses form the core of the Texas economy; and

WHEREAS, many small business owners have been forced to stop providing health insurance for their employees because of the rising cost of health care and health insurance premiums, and the lack of a robust small-employer health insurance market; and

WHEREAS, the health care system can be transformed to deliver safer, higher-quality care in a more cost-effective way by empowering consumers with information about the options, price, and quality of the health care available to them, developing a standardized electronic health information infrastructure, and fostering a robust small-employer health insurance market; and

WHEREAS, in an executive order "Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs" issued on August 22, 2006, President George W. Bush directed federal agencies that administer or sponsor federal health insurance programs to:

1. increase transparency in pricing;
2. increase transparency in quality;
3. encourage adoption of health information technology ("IT") standards; and
4. provide options that promote quality and efficiency in health care.

WHEREAS, the President's executive order complements ongoing health IT and consumer empowerment initiatives being undertaken by the Governor's Health Care Policy Council and the Health Information Technology Advisory Committee; and

WHEREAS, the establishment of a public-private collaborative will enhance the state's ability to develop, implement, and administer the policies and systems necessary to achieve transparency, the rapid and secure exchange of information in the health care system, and a robust small-employer health insurance market; and

WHEREAS, an advisory group of health care industry stakeholders is necessary to ensure that any public-private collaborative established will benefit the greatest number of stakeholders at the lowest cost;

NOW THEREFORE, I, RICK PERRY, Governor of the State of Texas, by virtue of the power and authority vested in me by the Constitution and the laws of the State of Texas, do hereby issue the following order:

Creation of Partnership. The Texas Health Care System Integrity Partnership ("Partnership") is hereby created to advise the Governor on the finance and governance structure for a public-private collaborative, tentatively named the Texas Health Care System Integrity Authority ("THCSIA").

The mission of the THCSIA is to promote a safe, high-quality, transparent, and efficient health care system by:

1. Enabling the secure, electronic, exchange of health information;
2. Providing consumers with access to information on the price and quality of health care goods and services, and health insurance products; and
3. Fostering a robust and competitive small-employer health insurance market.

Composition and Terms. The Partnership shall consist of 11 members appointed by the Governor and include representatives of employers, physicians, hospitals, health plans, pharmacies, clinical laboratories, pharmacy benefit managers, and consumers.

The Governor will designate one member to serve as the chair.

The Governor may fill any vacancy that may occur and may appoint other voting or ex-officio, non-voting members as needed.

Any state or local officers or employees appointed to serve on the Partnership shall do so in addition to the regular duties of their respective offices or positions.

All appointees serve at the pleasure of the Governor.

Duties. The Partnership shall advise the Governor on recommended structures through which the THCSIA can be financed and governed. The THCSIA, through the finance and governance structures developed by the Partnership, will positively affect the Texas health care system by promoting and enabling health information technology, quality and price transparency, quality and efficiency of care, and a robust small-employer health insurance market.

Coordination. The Partnership, through its advisory efforts, shall coordinate with national, state, and local entities.

Report. The Partnership shall report its findings in writing to the governor, the lieutenant governor, and the speaker of the house by March 1, 2007.

Administrative Support. The staff of the Texas Health Care Policy Council within the Office of the Governor and state agencies may provide staff to assist the Partnership as necessary.

This executive order supersedes all previous orders on this matter that are in conflict or inconsistent with its terms and this order shall remain in effect and in full force until modified, amended, rescinded, or superseded by me or by a succeeding Governor.

Given under my hand this the 9th day of October, 2006.

Rick Perry, Governor
TRD-200605576



THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following:
Requests for Opinions, Opinions, Open Records Decisions.

An index to the full text of these documents is available from
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. For information about pending requests for opinions, telephone 512-463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

Request for Opinions

RQ-0535-GA

Requestor:

The Honorable Jesusa Sanchez-Vera

Jim Wells County Attorney

200 North Almond

Post Office Drawer 2080

Alice, Texas 78332

Re: Authority of a municipality to approve a loan to a private developer to fund a private housing project (Request No. 0535-GA)

Briefs requested by November 10, 2006

RQ-0536-GA

Requestor:

The Honorable Eddie Lucio, Jr.

Chair, Committee on International Relations and Trade

Texas State Senate

Post Office Box 12068

Austin, Texas 78711

Re: Proper disposition by a county of seized gambling paraphernalia (Request No. 0536-GA)

Briefs requested by November 10, 2006

RQ-0537-GA

Requestor:

Mr. Adan Munoz, Jr., Executive Director

Texas Commission on Jail Standards

Post Office Box 12985

Austin, Texas 78711

Re: Whether a sheriff may deduct previously-incurred medical expenses from a county jail inmate's commissary account (Request No. 0537-GA)

Briefs requested by November 13, 2006

RQ-0538-GA

Requestor:

The Honorable Homero Ramirez

Webb County Attorney

Post Office Box 420268

Laredo, Texas 78042-0268

Re: Whether the board of trustees of an independent school district may, or must, change the terms of offices of trustees from three to four years (Request No. 0538-GA)

Briefs requested by November 13, 2006

RQ-0539-GA

Requestor:

The Honorable Mike Jackson

Chair, Committee on Nominations

Texas State Senate

Post Office Box 12068

Austin, Texas 78711

Re: Whether an assistant police chief may simultaneously serve as a city administrator; and whether he may maintain his civil service status while doing so (Request No. 0539-GA)

Briefs requested by November 13, 2006

RQ-0540-GA

Requestor:

The Honorable Royce West

Chair, Committee on Intergovernmental Relations

Texas State Senate

Post Office Box 12068

Austin, Texas 78711

Re: Constitutionality of fee imposed on international fund transfers and used for the purpose of funding indigent health care (Request No. 0540-GA)

Briefs requested by November 13, 2006

For further information, please access the website at www.oag.state.tx.us or call the Opinion Committee at (512) 463-2110.

TRD-200605674
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: October 18, 2006



PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~[Square brackets and strikethrough]~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.18

The Texas Department of Housing and Community Affairs (the Department) proposes new §1.18, concerning Colonia Housing Standards. This new section is proposed in order to establish housing quality standards for housing projects located in colonias.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Michael Gerber has also determined that for each year of the first five-years the section is in effect the public benefit anticipated as a result of enforcing the section will enhance the State's ability to provide decent, safe and sanitary housing for Texans. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Public hearings will be held across the state between October 30 and November 9, 2006 to receive input on this proposed new rule. More information on the hearings can be found at <http://www.tdhca.state.tx.us/hearings.htm>. Comments may be submitted to Homero Cabello, Director Office of Colonia Initiatives Division, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941. Comments must be made within 30 days of this notice.

The new section is proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, articles or statutes are affected by this new section.

§1.18. Colonia Housing Standards.

(a) Purpose. The purpose of this section is to establish housing quality standards for housing projects located in colonias. A colonia is defined in Tex. Gov't Code Ann. §2306.581 to mean a geographic area located in a county some part of which is within 150 miles of the international border of this state and that:

(1) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the quali-

cations of an economically distressed area under §17.921, Water Code, or

(2) has the physical and economic characteristics of a colonia, as determined by the Texas Department of Housing and Community Affairs.

(b) Colonia Housing Standards.

(1) Site and Neighborhood. The site and neighborhood shall not be subject to serious adverse environmental conditions, including at a minimum, but not limited to,

(A) flooding;

(B) open sewers; and

(C) accumulation of trash or refuse.

(2) Access.

(A) the dwelling unit shall have direct access for the occupants from public roadways;

(B) if new construction, the dwelling unit shall comply with the accessibility requirements specified in Tex. Gov't Code Ann. §2306.514; and

(C) the dwelling unit shall have operable doors and windows with serviceable locks.

(3) Structure and Materials. The structure and materials shall be such that the dwelling is structurally sound and does not pose a threat to the health and safety of the occupants, including:

(A) the structure shall be free from any serious defects such as leaning, buckling, or tripping hazards;

(B) roof shall be firm and weather tight; and

(C) in the case of a manufactured home, the home must be permanently anchored to the site to prevent movement.

(4) Lead-Based Paint. All structures shall be inspected for defective paint surfaces in units constructed prior to 1978 which are occupied by families with children under seven years of age. In the event a structure built before 1978 has been identified as having been painted with lead-based paint, it must comply with the requirements of §302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §4822, and the following abatement measures shall be taken if:

(A) the painted surfaces have cracking, peeling, scaling, chipping, or loose paint; or

(B) the family that occupies the unit has a child under seven years of age who is confirmed to have a concentration of lead in whole blood of 25 micrograms of lead per deciliter of whole blood, or higher;

(5) Water Supply. The water supply shall be free of contamination; the water heater shall not be located in a bathroom,

bedroom, or clothes closet; and potable water shall be supplied to all kitchens and bathrooms.

(6) Sanitary Facilities. The dwelling unit shall contain its own sanitary facilities which shall be connected to an approved sewer or septic system, shall be in proper working condition and which shall be separate from other rooms to insure privacy. A bathroom shall contain a lavatory sink, a bathtub and/or shower, and a flush toilet.

(7) Interior Air Quality. The air in the dwelling unit shall be free of pollutants, such as carbon monoxide, sewer gas, and fuel gas.

(A) Bathrooms shall have at least one operable window or other adequate exhaust ventilation; and

(B) All windows in the dwelling unit shall have screens to cover each window opening.

(8) Food Preparation. The dwelling unit shall contain space and equipment in the proper operating condition to prepare and serve food in a sanitary manner. Each dwelling unit shall have:

(A) a working stove with a minimum of four operating burners;

(B) provisions for mechanical refrigeration of food at a temperature of not more than 45 degrees Fahrenheit;

(C) adequate sinks with hot and cold water under pressure which shall drain into an approved public or private sewer or septic system; and

(D) adequate lighting and ventilation.

(9) Electrical. Each room in the dwelling unit shall have natural or artificial lighting to permit normal indoor activities.

(A) living areas and bedrooms shall have at least one window;

(B) a ceiling or wall type light fixture shall be present and working in the bathroom and kitchen;

(C) at least two electrical outlets shall be present in the living area, kitchen, and bedrooms;

(D) all rehabilitation and new construction shall comply with the National Electric Code which includes the installation of Ground Fault Interruption Circuits (GFIC) in the kitchen and bathroom; and

(E) all new construction shall comply with the construction standards of Tex. Gov't Code Ann. §2306.514 which require accessibility and specify the location of electrical panels or breaker boxes, light switches, electrical plugs, and thermostats. Each breaker box is required to be located inside the dwelling on the first floor.

(10) Thermal Environment. The dwelling unit shall have and be capable of maintaining a healthy thermal environment.

(A) the dwelling unit shall be energy efficient;

(B) the dwelling unit shall have operable windows to provide cross ventilation; and

(C) room heaters that burn natural gas, heating oil, or kerosene, or other flammable fuels shall be vented to prevent fire and safety hazards. All vents shall extend above the peak of the roof.

(11) Security. The dwelling unit shall be secure.

(A) all exterior doors and windows shall be secured with operable locks; and

(B) at a minimum, there shall be one Underwriters Laboratories (UL) approved, battery operated or hardwired smoke detector on each level of the unit.

(c) Appeals and Alternative Dispute Resolution.

(1) The Department provides a process for appeal of decisions made under 10 T.A.C. §1.7 and §1.8.

(2) The Department encourages the use of alternative dispute resolution as outlined in 10 T.A.C. §1.17.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 16, 2006.

TRD-200605594

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 475-4595



CHAPTER 2. OWNER-BUILDER LOAN PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

10 TAC §§2.1 - 2.4

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of §§2.1 - 2.4, concerning the Owner-Builder Loan Program Rules. The sections are to be repealed in order to conform to Chapter 2306 of the Texas Government Code, which governs the administration of the Owner-Builder Loan Program.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Michael Gerber also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to permit the adoption of new rules for the administration of the Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program by the Department, thereby enhancing the State's ability to provide decent, safe and sanitary housing for Texans. There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Public hearings will be held across the state between October 30 and November 9, 2006 to receive input on this rule repeal. More information on the hearings can be found at <http://www.td-hca.state.tx.us/hearings.htm>. Comments may be submitted to Homero Cabello, Director, Office of Colonia Initiatives Division,

Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941. Comments must be received by the Department by 5:00 p.m. November 27, 2006.

This repeal is proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, article or statute is affected by this proposed repeal.

§2.1. *General Provisions.*

§2.2. *Owner-Builder Eligibility.*

§2.3. *Loan Amount and Loan Terms.*

§2.4. *Certification of Owner-Builder Housing Programs.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 16, 2006.

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Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-4595



SUBCHAPTER B. A NONPROFIT OWNER-BUILDER HOUSING PROGRAM ELIGIBILITY

10 TAC §2.10, §2.11

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of §2.10 and §2.11, concerning the Owner-Builder Loan Program Rules. The sections are to be repealed in order to conform to Chapter 2306 of the Texas Government Code, which governs the administration of the Owner-Builder Loan Program.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Michael Gerber also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to permit the adoption of new rules for the administration of the Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program by the Department, thereby enhancing the State's ability to provide decent, safe and sanitary housing for Texans. There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Public hearings will be held across the state between October 30 and November 9, 2006 to receive input on this rule repeal.

More information on the hearings can be found at <http://www.td-hca.state.tx.us/hearings.htm>. Comments may be submitted to Homero Cabello, Director, Office of Colonia Initiatives Division, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941. Comments must be received by the Department by 5:00 p.m. November 27, 2006.

This repeal is proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, article or statute is affected by this proposed repeal.

§2.10. *A Nonprofit Owner-Builder Housing Program.*

§2.11. *Owner-Builder Education Classes.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 16, 2006.

TRD-200605593

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 475-4595



CHAPTER 2. TEXAS BOOTSTRAP LOAN PROGRAM

10 TAC §§2.1 - 2.17

The Texas Department of Housing and Community Affairs (the Department) proposes new §§2.1 - 2.17, concerning the Texas Bootstrap Loan Program. These new sections are proposed in order to conform to Chapter 2306 of the Texas Government Code, which governs the administration of the Housing Trust Fund.

Michael Gerber, Executive Director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Gerber has also determined that for each year of the first five-years the sections are in effect the public benefit anticipated as a result of enforcing the sections will enhance the State's ability to provide decent, safe and sanitary housing for Texans. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Public hearings will be held across the state between October 30, 2006 and November 9, 2006 to receive input on the proposed new rules. More information on the hearings can be found at <http://www.tdhca.state.tx.us/hearings.htm>. Comments may be submitted to Homero Cabello, Director Office of Colonia Initiatives Division, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941. Comments must be made within 30 days of this notice.

These sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, articles or statutes are affected by these sections.

§2.1. Purpose.

(a) This chapter clarifies the administration of the Texas Department of Housing and Community Affairs Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program. The Texas Bootstrap Loan Program provides assistance to income-eligible individuals, families and households to finance, acquire, rehabilitate and develop decent, safe and sanitary housing. The Program is administered in accordance with Subchapter FF, Chapter 2306 of the Texas Government Code.

(b) The Texas Bootstrap Loan Program is a self-help construction program that is designed to provide low-income families an opportunity to help themselves attain homeownership or repair their existing homes through sweat equity. All participants under this program are required to provide at least 60 percent of labor that is necessary to construct or rehabilitate the home. All applicable building codes and housing standards are adhered to under this program. In addition, nonprofit organizations can combine these funds with other sources such as private lending institutions, local governments, or any other sources for this purpose. However, all combined repayable loans may not exceed \$60,000 per unit.

§2.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Activity--A form of assistance by which Texas Bootstrap Loan Program funds are used to provide incentives to develop and support affordable housing and homeownership through acquisition, new construction, reconstruction, and rehabilitation of residential housing.

(2) Administrative Deficiencies--The absence of information or a document from the Application as required by these rules.

(3) Applicant--An eligible entity which is preparing to submit or has submitted an Application for Texas Bootstrap Loan Program funds and is designated in the Application to assume contractual liability and legal responsibility to execute the written agreement with the Department.

(4) Application--A written request for Texas Bootstrap Loan Program funds in the format required by the Department.

(5) AMFI--HUD's Area Median Family Income.

(6) Board--The governing board of the Texas Department of Housing and Community Affairs.

(7) Colonia--A geographic area located in a county some part of which is within 150 miles of the international border of this state that:

(A) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under §17.921, Water Code; or

(B) has the physical and economic characteristics of a Colonia, as determined by the Department.

(8) Committed--Funds budgeted to a household and approved by the Department.

(9) Competitive Application Cycle--A defined period during which applications may be submitted according to a published Notice of Funding Availability (NOFA). Applications will be reviewed in accordance with the rules for Application review published in the NOFA, and Application guidelines. The Department may release funds in a two year funding cycle or less than two years.

(10) Contract--A written agreement, including all amendments thereto; executed by the Department and Technical Assistance Provider.

(11) Department--The Texas Department of Housing and Community Affairs.

(12) Development--Projects that have a construction component, either in the form of new construction or the rehabilitation of single family residential housing that meet the Texas Bootstrap Loan Program requirements.

(13) Drawn--Funds approved by the Department and disbursed to the Technical Assistance Provider.

(14) Household--One or more persons occupying a housing unit.

(15) HUD--United States Department of Housing and Urban Development.

(16) Low-Income Families--Owner-Builders may not have an annual income that exceeds 60 percent, as determined by the Department, of the greater of the state or local median family income, when combined with the income of any person who resides with the Owner-Builder.

(17) New Construction--Any single-family structure not meeting the definition of Rehabilitation or Reconstruction.

(18) NOFA--Notice of Funding Availability, published in the *Texas Register*.

(19) NOHP--Nonprofit Owner-Builder Housing Program.

(20) Nonprofit Organization--A public or private organization that:

(A) is organized under state or local laws;

(B) has no part of its net earnings benefiting any member, founder, contributor, or individual;

(C) has a current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization nonprofit under §501(c)(3) of the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant.

(D) A private nonprofit organization's pending application for §501(c)(3) status cannot be used to comply with the tax status requirement.

(21) Open Application Cycle--A defined period during which applications may be submitted according to a published NOFA and which will be reviewed on a first come-first served basis until all funds available are committed, or until the NOFA is closed. Applications will be reviewed in accordance with the rules for Application review published in the NOFA, and/or Application guidelines. The Department may release funds in a two year funding cycle or less than two years.

(22) Owner-Builder--A person or household who owns or purchases a piece of real property through a warranty deed; or is purchasing a piece of real property under a contract for deed; and who

undertakes to make improvements to that property and as further described in §2.16 of this chapter.

(23) Program--Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program.

(24) Reconstruction--The rebuilding of a new single-family structure on the same lot where housing exists at the time of Owner-Builder loan application. Texas Bootstrap Loan Program funds may also be used to build a new foundation or repair an existing foundation.

(25) Rehabilitation--Includes the alteration, improvement or modification of an existing single family structure. It may also include moving an existing single family structure to a foundation constructed with Texas Bootstrap Loan Program funds.

(26) Related Party--As defined in §2306.6702 of the Texas Government Code.

(27) Self-Help Housing--The self-help housing process enables Owner-Builders to rehabilitate, reconstruct or construct their own homes, usually working together in groups on other eligible Owner-Builder's houses at the same time. Owner-builders use their own "sweat equity" to reduce the cost of their homes.

(28) Single family structure--A property designed and built to support the habitation of one person or one household.

(29) Technical Assistance Provider (TAP)--A successful Applicant that has been awarded funds and has entered into a contract with the Department to administer the Texas Bootstrap Loan Program.

(30) Unit--A single family structure.

§2.3. Allocation of Funds.

(a) The Department administers all Texas Bootstrap Loan Program funds provided to the Department in accordance with Subchapter FF, Chapter 2306 of the Texas Government Code. The Department shall:

(1) solicit gifts and grants to make loans under this chapter.

(2) The Department may also make loans under this chapter from:

(A) available funds in the housing trust fund established under §2306.201, of the Texas Government Code; and

(B) federal block grants that may be used for the purposes of this chapter; and

(C) the Owner-Builder revolving loan fund established under §2306.7581, of the Texas Government Code.

(3) In a state fiscal year, the Department may use not more than 10 percent of the revenue available for purposes of this chapter to enhance the ability of tax-exempt organizations described by §2306.755(a) of the Texas Government Code to implement the purposes of this chapter.

(b) The Department shall establish an Owner-Builder revolving loan fund for the sole purpose of funding loans under this chapter pursuant to §2306.7581 of the Texas Government Code.

(c) The Department shall deposit money received in repayment of a loan under this chapter to the Owner-Builder revolving loan fund pursuant to §2306.7581 of the Texas Government Code.

(d) Each state fiscal year the Department shall transfer at least \$3 million to the Texas Bootstrap Loan Program revolving fund from money received under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §12701 et seq.) from money in the

housing trust fund; or from money appropriated by the legislature to the Department pursuant to §2306.7581 of the Texas Government Code.

§2.4. Applicant Requirements.

(a) Eligible Applicant. The following organizations or entities are eligible to apply for the Texas Bootstrap Loan Program:

(1) Colonia Self Help Centers established under Chapter 2306, Subchapter Z, Texas Government Code; or

(2) Nonprofit Owner-Builder Housing Program (NOHP) certified by the Department pursuant to §2306.755 of the Texas Government Code.

(b) Ineligible Applicant: The following violations will cause an Applicant, and any Applications they have submitted, to be ineligible:

(1) previously funded Applicant(s) whose funds have been partially or fully deobligated due to failure to meet contractual obligations during 24 month period prior to the Application deadline date;

(2) Applicants who have not satisfied all eligibility requirements described in the NOFA, and application guidelines to which they are responding, and for which Administrative Deficiencies were unresolved;

(3) Applicants that have failed to make timely payment on any loans or fee commitments made with the Department;

(4) Applicants that have been debarred by HUD or the Department; or

(5) Applicant, or their staff, violate the state's revolving door policy.

(c) Communication with Department Employees. Communication with Department employees by Applicants that submit an Application must follow the following requirements. During the period beginning on the date an Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.

(1) the communication must be restricted to technical or administrative matters directly affecting the Application;

(2) the communication must occur or be received on the premises of the Department during established business hours; and

(3) a record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication.

(d) Noncompliance. Each application will be reviewed for its compliance history by the Department. Applications found to be in Material Noncompliance, or otherwise violating the compliance rules of the Department, will be terminated.

(e) Eligibility requirements. An Applicant must satisfy the following requirements in order to be eligible to apply for the Texas Bootstrap Loan Program funding and as more fully described in the NOFA and application guidelines, when applicable. The applicant must have the capacity to administer and manage resources as evidence by pre-

vious experience of managing state and/or federal programs based on each of the following preferred experience:

(1) Applicant must provide names and details, such as number of houses built, financing structure and construction timelines of previous projects in order to show evidence of its ability to carry out the Texas Bootstrap Loan Program in the areas of property development (including processes related to surveying, platting and recording of property), home loan processing, financing, coordinating with private financial institutions, acquiring, rehabilitating, reconstruction or constructing affordable single-family housing, in managing self-help housing and volunteer labor projects;

(2) Applicant must provide copies of program guidelines used to qualify Owner-Builders and homebuyer course curriculum in order to show evidence of its experience in qualifying potential Owner-Builders; providing education classes, counseling and training;

(3) Applicant must submit any past due audit to the Department in a satisfactory format on or before the Application deadline;

(4) Applicants must have met all performance and expenditure benchmarks as outlined in any existing or prior contracts awarded by the Department;

(5) Applicant must provide copies of documentation from the Texas Secretary of State and Comptroller's Office demonstrating Applicant is in good standing.

(f) If indicated by the Department, comply with all requirements to utilize the Department's website to provide necessary data to the Department.

§2.5. Application Limitations.

(a) The Department reserves the right to reduce the amount requested in an Application based on program or project feasibility, need to ensure dispersion of funds, underwriting analysis, or availability of funds.

(b) An award amount for the Texas Bootstrap Loan Program shall not exceed \$600,000 plus administrative fees not to exceed 4% of award amount, except as may be otherwise authorized by the Board or as otherwise stated in the NOFA.

(c) The contract term for the Texas Bootstrap Loan Program shall not exceed 24 months, except as may be otherwise authorized by the Board.

(d) Per household assistance from the Department for any Texas Bootstrap Loan Program Loans may not exceed \$30,000 per-household pursuant to §2306.754(b) of the Texas Government Code. The Owner-Builder must obtain the amount necessary that exceeds \$30,000 from one or more local governmental entities, nonprofit organizations, or private lenders. The total amount of repayable loans made by the Department and other entities to an Owner-Builder under the Program may not exceed \$60,000 pursuant to §2306.754(b) of the Texas Government Code.

(e) An award amount for Disaster Relief shall not exceed \$750,000 plus administrative fees not to exceed 4% of award amount per State declared disaster, or as may be otherwise authorized by the Board.

§2.6. Program Activities.

All eligible Applicants that satisfy the requirements of §2.4 of this chapter may apply for Texas Bootstrap Loan Program funding.

§2.7. Prohibited Activities.

The following activities are prohibited and are not eligible costs under the Program.

(1) Payment of delinquent property taxes or related fees or charges on properties to be assisted with Texas Bootstrap Loan Program funds;

(2) Loan Origination Fees;

(3) Application fee;

(4) Discount fees;

(5) Underwriter fee;

(6) Loan Processing fees; and

(7) Other fees not approved by the Department.

§2.8. Distribution of Funds.

(a) Set-Asides: In accordance with §2306.753(d) at least two-thirds of the dollar amount of loans made under this chapter in each fiscal year must be made to Owner-Builders whose property is located in a county that is eligible to receive financial assistance under Subchapter K, Chapter 17, Water Code.

(b) Balance of State: The remaining one-third of the dollar amount of loans may be made to Owner-Builders in either a county under subsection (a) of this section or a county not eligible to receive financial assistance under Subchapter K, Chapter 17, Water Code.

(c) Redistribution: In an effort to commit Texas Bootstrap Loan Program funds in a timely manner, the Department may reallocate funds set-aside under subsection (a) of this section, at its own discretion, to other areas of the state if:

(1) the Department fails to receive a sufficient number of Applications by the application deadline date stated in the NOFA from the set-asides or balance of state;

(2) no Applications are submitted; or

(3) Applications from the Set-Aside under subsection (a) of this section that do not meet eligibility requirements or minimum threshold scores (when applicable), or are financially infeasible as applicable.

(4) The Department deobligated funds due to nonperformance from previous application cycles.

(d) Marginal Applications: When the remainder of the allocation within the set-aside under subsection (a) of this section or the balance of state is insufficient to completely fund the next ranked Application in the set-aside, it is within the discretion of the Department to:

(1) fund the next ranked Application for the partial amount, reducing the scope of the Application proportionally;

(2) transfer the remaining funds to either the balance of state or set-aside.

§2.9. Application and Award Process.

(a) The Department will publish a NOFA in the Texas Register and on the Department's website. The NOFA may be published as either an Open or Competitive Application Cycle. The NOFA will establish and define the terms and conditions for the submission of applications, and may set a deadline for receiving applications under a Competitive Application Cycle. The NOFA will also indicate the approximate amount of available funds.

(b) An Applicant must submit a completed Application to be considered for funding. Applications containing false information and Applications not received by the deadline will be disqualified. Disqualified Applicants are notified in writing. All Applications must be

received by the Department by 5:00 p.m. on the date identified in the NOFA, and Application guidelines, regardless of method of delivery.

(c) Applications received by the Department in response to an Application Cycle NOFA will be handled in the following manner:

(1) The Department will accept Applications until the Application deadline date on the NOFA. All Applications must be received during business hours (8:00 a.m. to 5:00 p.m.) on any business day. The Department may limit the eligibility of Applications in the NOFA, and application guidelines.

(2) Each Application will be assigned a "received date" based on the date and time it is physically received by the Department. Then each Application will be evaluated against the criteria outlined in this rule.

(3) The Department will ensure that the Application is reviewed for all materials required under the NOFA, and Application guidelines. Applications must comply with all applicable Texas Bootstrap Loan Program and Housing Trust Fund requirements or regulations established in these rules. Applications that do not comply with such requirements are disqualified. Disqualified Applicants are notified in writing.

(4) Administrative Deficiencies. If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the application, the Department staff may request clarification or correction of such Administrative Deficiencies including both threshold and/or scoring documentation. The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. An Applicant may not change or supplement an Application in any manner after the filing deadline, except in response to a direct request from the Department. Applicants must submit the requested information to the Department within five business days.

(5) Applicants will be notified of their score in writing no later than seven calendar days after all applications have been scored. If sufficient applications are not received in the set-aside area, any remaining funds will be redirected to the balance of the state. Applicants may also receive a partial recommendation for funding. A minimum award amount may be established to ensure feasibility.

(6) Upon completion of the applicable final review and scoring, Applications will be ranked based on set-aside or balance of state and presented to the Executive Awards Review and Advisory Committee (the Committee). The Committee will then recommend to the Board awards of funds to specific Applicants.

(7) The Department may decline to fund any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process.

(8) Subsequently, recommendations for funding will be made available on the Department's website at least seven calendar days prior to the Board meeting at which the awards may be approved.

(9) Applicants may appeal staff's decision regarding their applications in accordance with §1.7 of this title.

(10) In the event of a tie between two or more Applicants, the Department reserves the right to determine which Application will receive a recommendation for funding. This decision will be based on housing need factors and feasibility of the proposed project identified

in the Application. Tied Applicants may also receive a partial recommendation for funding.

(d) Alternative Dispute Resolution Policy. In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, and Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at §1.17 of this title.

§2.10. General Threshold Criteria.

At a minimum, the following criteria must be satisfied in the Application for the Texas Bootstrap Loan Program fund. The applicable criteria are further delineated in the Application guidelines and NOFA, which are part of the application package.

(1) Needs Assessment--Applicant must demonstrate whether the proposed project meets the demographic, economic and special need characteristics of the population residing in an underserved area (colonia or Economically Distressed County as defined within the NOFA or application).

(2) Operational Capability and Experience of Applicant--Whether the Applicant has the capacity to administer and manage the proposed program/project, demonstrated through previous experience either by the Applicant, cooperating entity or key staff (including other contracted service providers), in program management, managing self-help housing, volunteer labor projects involving acquisition, rehabilitation, reconstruction, new construction, home buyer education classes, real estate finance counseling and training or other activities relevant to the proposed program.

(3) Financial Design. Applications for funding will be reviewed for written evidence of the capacity to maintain financial systems, including the responsibility of accounting staff. The Application must adequately describe the lead Applicants and co-Applicants financial standing for the last three years. The review will be based on the supporting financial data provided by Applicants and third party reports such as financial statements and audits submitted with the Application. Submission of "Independent Auditor's Report" dated within 12 months of application deadline date, describing the financial standing of the applicant within the last three years. Report must show evidence of Applicant's capacity to maintain an effective financial system, and the extent to which Applicant has the capability to manage financial resources, as evidenced by previous experience, documentation of the Applicant or key staff, and existing financial control procedures.

(4) Leveraging of public and/or private resources. Does the applicant and/or co-applicant have private-sector support for the project from community and/or neighborhood organizations, local businesses and commercial lenders or private individuals as well as units of local government.

(5) Program Design. Applications for funding will be reviewed for written evidence of how the Owner-Builders will meet the 60% sweat equity requirement. Applicant must describe in detail how the program guidelines will be used to identify and prioritize families

earning less than \$17,500. In addition Applicants must provide specific development plans, program schedules and performance benchmarks that will enable them to build units within a 24 month contract.

§2.11. Selection Criteria for Texas Bootstrap Loan Program.

(a) Maximum points available is 100. Applications must achieve a minimum threshold score of 70 points based on the Department's review in order to be considered eligible to receive a funding recommendation.

(b) The following selection criteria point breakdown will be utilized when scoring Applications:

(1) Income Targeting: (Maximum Points: 13) Points will be awarded based on the percentage of total households targeted to specific income levels as defined by HUD's Area Median Family Income.

(A) 10% to 19.99% of units at 30% AMFI, 4 points;

(B) 20% to 39.99% of units at 30% AMFI, 6 points;

(C) 40% to 59.99% of units at 30% AMFI, 8 points;

(D) 60% to 79.99% of units at 30% AMFI, 10 points;

(E) 80% to 100.00% of units at 30% AMFI, 13 points.

(2) Previous Award, Past Performance and First Time Applicants. (Maximum Points: 10) Applicants will receive 10 points for having received an award from the Bootstrap Program and performed in accordance with their contracts and Department rules. If performance benchmarks as outlined in contract have not been met or funds have been deobligated or if Applicant has been found in noncompliance on any prior award described in §2.12 of this chapter, a score of zero points will result. Unsatisfactory past performance on any contract will be forgiven for funding purposes if three years from the Application deadline date has elapsed. In an effort to encourage participation in the Texas Bootstrap Loan Program first time Applicants will be awarded 10 points.

(3) Letters of support. (Maximum Points: 10) Points will be awarded based on a review of the letters (up to five letters; 2 points per letter up to a maximum of 10 points.) submitted from community and/or neighborhood organizations, local businesses and commercial lenders or private individuals as well as units of local government who indicate support to the Texas Bootstrap Loan Program project. To be considered for scoring, the letters must include the company's name, contact person (full name), address, city, state, and zip code; signed and dated within three months of the application deadline.

(4) Readiness to Proceed. (Maximum Points: 10) Points will be awarded based on a review of the commitment letters provided to Owner-Builders interested in participating in the Texas Bootstrap Loan Program. To be considered for scoring, the letters must be on applicant's letterhead, including: Owner-Builder's name, address, city, state, zip code and phone number. Letters must be signed by both Owner-Builder and nonprofit organization and dated within three months of application deadline. 2 point per letter for a maximum of 10 points.

(5) Level of Homebuyer Counseling for Homebuyer Assistance. (Maximum Points: 4) Points will be awarded based on a review of the documentation submitted describing the level of homebuyer counseling proposed for potential homebuyers. Maximum of 4 points.

(A) Copy of curriculum meeting Department requirements as described in Application, 2 points; and

(B) Post purchase counseling to be provided, 2 points.

(6) Lien Position. (Maximum Points: 10) To encourage participation, the Department may subordinate its lien position if the leveraged loan is greater or equal than the Department's loan. However, liens related to other subsidized funds provided in the form of grants and nonamortizing loans, such as deferred payment or forgivable loan, must be subordinated to the Department's loan. If the Department is in a first lien or in a parity lien position based on this standard, the Applicant will be awarded 10 points.

(7) Operational Capability and Experience. (Maximum Points: 10) Points will be awarded based on the number of years of experience the Applicant demonstrates in managing self-help housing and volunteer labor projects, construction, real estate financing, counseling and other relevant activities. For each year of experience in managing self-help housing projects Applicant will be awarded 2 points (maximum of 10 points). Must demonstrate years of experience by providing details of previous projects and/or resumes of persons involved in the self-help project must be submitted with the Application. Project and resumes will be reviewed and verified by the Department staff.

(8) Program Design. (Maximum Points: 33) Points will be awarded based on the comprehensive and thorough program design. Points are awarded only to the extent the design is well planned and a sound proposal is submitted:

(A) Describe in detail by identifying what construction activities will be done by the Owner-Builder to meet the 60% sweat equity construction requirement will be met; (10 points)

(B) Provide the program guidelines that will be used select the Owner-Builders; (8 points)

(C) Describe how families earning less than \$17,500 will be identified and prioritized; (5 points)

(D) Describe the specific development plans, program/construction schedule and performance benchmarks that will enable the Applicant to select and qualify Owner-Builders and build or rehabilitate houses within a 24 month contract. (10 points)

§2.12. Program Administration.

(a) Agreement. Upon approval by the Board, Applicants receiving Texas Bootstrap Loan Program funds shall enter into, execute, and deliver to the Department all written agreements between the Department and Applicant.

(b) Amendments. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any Program written agreement provided that:

(1) in the case of a modification or amendment to the dollar amount of the award, such modification or amendment does not increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; and

(2) in the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award.

(3) Modifications and/or amendments that increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; or significantly decrease the benefits to be received by the Department, in the estimation of the Executive Director, will be presented to the Board for consideration.

(c) Sanctions/Deobligation. The Department may apply appropriate graduated sanctions leading up to, but not limited to deobli-

gation of funds and future debarment from participation in the program in the following situations:

(1) Technical Assistance Provider has any unresolved compliance issues on existing or prior contracts with the Department;

(2) Technical Assistance Provider fails to set-up programs/projects or expend funds as outlined in the program Contract;

(3) Technical Assistance Provider defaults on any agreement by and between Technical Assistance Provider and the Department;

(4) Technical Assistance Provider misrepresents any facts to the Department during the Program application process, award of contracts, or administration of any Department contract;

(5) Technical Assistance Provider demonstrates the inability to provide adequate financial support to administer the Program contract or withdrawal of significant financial support;

(6) Technical Assistance Provider fails to build or rehabilitate the number of houses under the contract.

(7) The Department may use all applicable contract provisions and/or any relevant rules to assure compliance with these rules or contract terms.

(d) Waiver. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of these Rules if the Board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, of the Texas Government Code, or for good cause, as determined by the Board.

(e) Additional Funds. In the event the Department has additional funds in the same funding cycle, the Department, with Board approval, may elect to distribute funds to other Applicants.

(f) The Department may terminate a contract in whole or in part. If Technical Assistance Provider has not achieved performance benchmarks outlined in contract within six (6) months of the effective date of the contract, the contract may be terminated. The Department will track substantial progress during the initial six (6) month period and throughout the contract term. Performance must be satisfactorily completed during the term of the contract as follows:

(1) By the end of the second quarter from the effective date of the contract period, the Technical Assistance Provider must have submitted for approval a minimum of 50% of the eligible Owner-Builder applicants to the Department.

(2) By the end of the third quarter from the effective date of the contract period, the Technical Assistance Provider must have submitted for approval 100% of all eligible Owner-Builder applicants to the Department.

(3) By the end of the fourth quarter from the effective date of the contract period, the Technical Assistance Provider must ensure that 50% of the approved Owner-Builder applicants have completed all of the Department's loan closing documents as applicable and started construction on their home.

(4) By the end of the fifth quarter from the effective date of the contract period the Technical Assistance Provider must ensure that 100% of the approved Owner-Builder applicants have completed all of the Department's loan closing documents as applicable and have started construction on their home.

(5) By the end of the sixth quarter from the effective date of the contract period, Technical Assistance Provider must ensure that 50% of houses awarded under the contract are completed and meet all applicable codes and standards.

(6) By the end of the seventh quarter from the effective date of the contract period, Technical Assistance Provider must ensure that 100% of houses awarded under the contract are completed and meet all applicable codes and standards.

(7) The eighth quarter is reserved to complete and fund the remaining houses, project close-out and the Department monitoring functions.

(8) Loan closing will take place at a title company and the funds will be disbursed upon receipt of proper documentation from the title company selected by the Technical Assistance Provider or the Department. All other draws will be disbursed as described in the Program Documents.

(9) Quarterly reports are due by the Technical Assistance Provider to the Department on the 20th of the month following the end of each calendar quarter. All funding will be suspended until reports are received.

(g) Lower percentages may be allowed as approved by the Department due to an extenuating circumstance. An extenuating circumstance is an event or set of incidents beyond the control of the Technical Assistance Provider as determined by the Department.

(h) Roles and responsibilities for administering the program contract. Technical Assistance Provider's (TAP) are required to:

(1) qualify potential Owner-Builders for loans;

(2) provide Owner-Builder homeownership education classes;

(3) assist Owner-Builders in building and/or rehabilitate housing;

(4) facilitate loans made or purchased by the Department under the Program; and

(5) implement and administer the Program on behalf of the Department.

(i) Loan Origination/Loan Servicing. A Technical Assistance Provider who receives an award or a reservation of funds may request to enter into a Loan Origination and/or Loan Servicing Agreement with the Department. The Department may grant the request upon reviewing the Technical Assistance Provider's capacity to implement those specific functions.

(j) First year consultation agreement. The Technical Assistance Provider agrees that if notified by the Department that Owner-Builder (Mortgagee) has failed to make a scheduled payment due under the Program Loan, or other payments due under the Program Loan documents issued under Contract, within the first twelve (12) months of funding, the Technical Assistance Provider will be required to meet with the Owner-Builder and provide counseling and assistance until the payments are made current. After consultation and in the event that the Department and Technical Assistance Provider are not able to reach a consensus about Technical Assistance Provider's effort to bring the Program Loan current as required under this chapter, the Department may require Technical Assistance Provider to purchase or repurchase the Program Loan in question in full.

(k) Conflict of Interest. The Technical Assistance Provider shall ensure that no employee, officer, or agent of Technical Assistance Provider shall participate in the selection, or in the award or administration of a subcontract supported by funds provided under this program if a conflict of interest, real or apparent, would be involved. Such conflict of interest would arise when: the employee, officer, or agent; any member of his or her immediate family; his or her partner; or, any organization which employs, or is about to employ any of the above; has

a financial or other interest in the firm or person selected to perform the subcontract. The Technical Assistance Provider may not accept an application from any of its officers or employees nor any spouse or person related within the third degree of affinity (marriage) or consanguinity (blood) to any officer or employee of the Technical Assistance Provider.

(l) Administrative Fee. The Technical Assistance Provider may request 50% of their administrative fee when 100% of all applicants have been approved by the Department. The remaining 50% may be requested on a unit basis when each home is 100% completed and funded.

(m) Blueprints. If Technical Assistance Provider's activity is interim or residential construction, Technical Assistance Provider must provide an original copy of the proposed blue prints to be approved by the Department prior to accepting applications. Blue Prints must include the required construction requirements pursuant to §2306.514 of the Texas Government Code.

(n) Work Write-up. The Technical Assistance Provider must establish written rehabilitation standards to apply to all rehabilitation projects. At a minimum, these standards must ensure that the home will meet CHS or HQS. Work write-ups must be reviewed and approved by the Department, before rehabilitation is started. The Technical Assistance Provider must also adopt a set of general specifications that provide detailed guidance to Owner-Builders and contractors on how to complete specific items in a work write-up.

(o) Loan program requirements. The Department may purchase or originate loans that conform to the lending parameters and the specific loan Program requirements as follows:

(1) Maximum Loan amount not to exceed \$30,000. If it is not possible for the Owner-Builder to purchase necessary real property and build adequate housing for \$30,000, the Technical Assistance Provider must obtain additional funding from one or more local governmental entities, nonprofit organization, or private lender;

(2) Minimum Loan amount is \$1,000;

(3) The total amount of all repayable loans under the Program may not exceed \$60,000 (repayable amortized loans);

(4) May not exceed a term of 30 years;

(5) Minimum loan term of 5 years;

(6) 0% non-interest loans;

(7) The Department may subordinate to a lien that secures the amount above \$30,000 when necessary as further described in §2.15(c) of this chapter;

(8) When refinancing a contract for deed, the Department will not disburse any portion of the Department's loan until the Owner-Builder receives a deed to the property;

(9) Owner-builder(s) must have resided in this State for the preceding six months prior to the date of application;

(10) Total Debt-to-Income Ratio: Maximum of 45% (unless otherwise dictated by the mortgage insurer, if any);

(11) Liabilities: The Owner-Builder applicant's liabilities include all revolving charge accounts, real estate loans, alimony, child support, installment loans, and all other debts of a continuing nature with more than 10 monthly payments remaining. Debts for which the Owner-Builder applicant is a co-signer will be included in the total monthly obligations unless the other party to the note provides evidence in the form of 12 months' canceled checks or bank statements showing that the Owner-Builder applicant has not been making pay-

ments on the co-signed loans. There may be no late payments within the past 12 months or the debt will be included. Payments on installment debts which are paid off prior to funding are not included for qualification purposes. Payments on revolving debt will be included in debt ratio calculation, even if the Owner-Builder applicant intends to pay off the accounts, since the Owner-Builder applicant can reuse those credit sources. Any bankruptcy must have been discharged. If an Owner-Builder has had a foreclosure within the past 24 months they may not be eligible to participate in the program.

(12) Must be a detached single-family residence or property located within the State of Texas. Manufactured homes are not eligible. All property taxes must be current prior to closing.

(13) The residence must be occupied as the principal residence of the Owner-Builder within thirty (30) days of the later of the end of the construction period or the closing of the loan. Any additional habitable structures must be removed from the property prior to closing.

(14) Escrow Account--Besides the loan payments, other costs associated with being a homeowner include real estate taxes, hazard insurance and flood insurance premiums, and related costs such as street or water assessments. The Department has an interest in making certain that these costs are paid in order to protect the property from tax sale or foreclosure, and to make certain that funds will be available to repair the property should it be damaged. The Owner-Builders will be required to deposit monthly funds to an escrow account with the 1st lien holder in order to pay the taxes and insurance statements. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due. These funds are included in the Owner-Builders monthly payment to the Department. If the Department is in a 1st lien position the Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA).

(15) Non-Purchasing Spouse--An Owner-Builder applicant's spouse who does not apply for the loan will be required to execute the deed of trust as a "non-purchasing" spouse and will not be required to execute the note. For credit underwriting purposes, the Owner-Builder applicant's spouse will be qualified using obligations for which the Owner-Builder applicant's spouse is personally or jointly liable. Only the income of the Owner-Builder applicant spouse will be counted. For program eligibility purposes, the income of a non-applicant spouse must be included in the calculation of family income. Tax Returns, W2's and recent pay check stubs, or Verification of Employment must be submitted to document family income.

(p) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any Texas Bootstrap Loan Program proposal or written agreement provided that:

(1) in the case of a modification or amendment to the dollar amount of the request or award, such modification or amendment does not increase the dollar amount by more than 25% of the original request or award, or \$50,000, whichever is greater;

(2) in the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award; and

(3) Modifications and/or amendments that increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; or significantly decrease the benefits to be re-

ceived by the Department, in the estimation of the Executive Director, will be presented to the Board for approval.

§2.13. Owner-Builder Qualifications.

The Owner-Builder must:

(1) Own and be refinancing or be purchasing a piece of real property through a warranty deed or Contract for Deed;

(2) Not have an annual household income that exceeds 60% of the greater of the state or local area median family income as determined by HUD income guidelines;

(3) Demonstrate the willingness and ability to repay the loan;

(4) Execute a Self-Help Agreement committing to provide at least 60% of the labor necessary to build the proposed housing working through a state-certified NOHP; or provide an amount of labor equivalent to 60% in connection with building housing for others through a state certified NOHP. For elderly or Owner-Builders with disabilities, 60% sweat equity may be documented in form of volunteers;

(5) Not have liquid assets in excess of \$25,000 (excluding retirement and/or 401K accounts);

(6) Successfully complete an Owner-Builder homeowner-ship education class prior to loan approval;

(7) Be given priority for loans if the Owner-Builder has an income of less than \$17,500 annually;

(8) Not be currently in delinquency or in default with child support and/or government loans;

(9) Not have any outstanding judgments and/or liens on the property.

§2.14. Types of Funding Transactions.

All mortgage loans will be evidenced by a promissory note and will be secured by a lien on the subject property. The following transaction types are permitted by the Department under the Program.

(1) Purchase Money. In a purchase money transaction, all proceeds are used to finance the purchase of a single-family dwelling unit and/or a piece of real property which will be the Owner-Builders primary residence within 30 days of closing the loan. In this instance, a permanent loan is made and the Owner-Builder's repayment obligation begins immediately. In certain situations, eligible closing costs may be financed by the loan proceeds.

(2) Residential Construction (One Time Closing with Owner Builder). An interim construction loan, also known as a residential construction loan, this transaction is treated as a purchase, because it is a one time closing with the Owner-Builder. Construction period is for 12 months at which time payments will begin on the 13th month after closing.

(3) Interim Construction (Closing with Technical Assistance Provider). Interim construction is a commercial transaction between the Technical Assistance Provider and the Department. The construction period is for 12 months, once the construction of the home is completed the closing with the Owner-Builder will take place as a purchase money transaction.

§2.15. Leveraged Loans.

When additional loans are utilized in addition the loan under this program, lenders are expected to charge reasonable and customary interest rates and fees. The Technical Assistance Provider may be able to help the applicant negotiate favorable terms.

(1) The leverage loan interest rate must be the rate the lender typically charges to its best mortgage applicant customer. An extra amount may not be charged because of low income or other high risk factors. The interest rate may be no more than 2% (200 basis points) above the FHA rate at the time of closing. Also, the lender may not include "points" to buy down or pre-pay the interest.

(2) Loan fees must be minimized and all fees must be reasonable. "Underwriting fees" and similar add-ons are not permitted. The total fees paid to the lender may not exceed 3.5% of the lender's loan. (This limitation on the lender applies regardless of whether the buyer or seller pays the fees.) In general, the Technical Assistance Provider must assure loan fees are minimized. The 3.5% is a maximum, not a baseline.

(3) The Department may accept a parity or subordinate lien position if the leveraged loan is greater or equal than the Department's loan. However liens related to other subsidized funds provided in the form of grants and nonamortizing loans, such as deferred payment or forgivable loans, must be subordinated to the Department's loan.

§2.16. Property Guidelines and Related Issues.

(a) At a minimum, properties located in a colonia, financed by the Department must meet Colonia Housing Standards ("CHS") only if no additional financing options are available. Properties located in all other areas must meet at a minimum Section 8 Housing Quality Standards (HQS). The applicable "HQS" or "CHS" Inspection report must be completed for each subject property where Housing Trust Funds are being utilized for Interim or Residential construction.

(b) If the Technical Assistance Provider is utilizing program funds to construct the home they must conform to §2306.514 of the Texas Government Code.

(c) If the property is located within an incorporated area where certain building codes must be met a certificate of occupancy must be submitted to the Department upon completion of construction. If the property is located outside of an incorporated area, an inspection by a certified third party licensed inspector must be completed and submitted to the Department upon completion of construction. In both instances any deficiencies noted on the certificate of occupancy or the third party inspector's report must be corrected prior closing.

(d) Appraisals will be required by the Department on each loan prior to funding.

(e) Surveys are required. Lot and final surveys will be required to be submitted.

(f) Insurance requirements:

(1) Title Insurance. The title insurance must be written by a title insurer licensed to do business in the jurisdiction where the mortgaged property is located.

(A) Title Commitment. A copy of the preliminary title report including complete legal description, and copies of covenants, conditions and restrictions, easements, and any supplements thereto is required. The preliminary title report should not be more than ninety (90) days old at the time the submission package (Submission or Funding Package) is sent to the Department.

(B) Mortgagee's Policy. The Department requires a Mortgagee's policy of title insurance in the amount of the loan. Loss Payee named shall be: "Texas Department of Housing and Community Affairs". Required endorsements include-T-36 Environmental Endorsement for all loans made by the Department.

(2) Property Insurance.

(A) Interim construction binders are required where construction of the residence is being financed. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(B) Hazard Insurance. The Department requires property insurance for protection against loss or damage from the following perils: fire, windstorm, hail, explosion, riot, and civil commotion, damage by aircraft, vehicles or smoke. Homeowner's policies or package policies that provide property and liability coverage are acceptable. All risk policies are acceptable. The amount of hazard insurance coverage at the time the loan is funded must be no less than 100% of the current insurable value of improvements. In the case of a construction/permanent loan, builder's risk coverage is required for the construction period, provided that the premium for a 12 month homeowner's policy is collected at closing for the purchase of a homeowner's policy at the end of construction. A builder's risk policy is acceptable while the dwelling is under construction as long as it meets the Department's requirements. An acceptable policy either: names the borrower as the insured; or contains a builder's risk endorsement for a policy issued to the borrower. A policy issued only to a contractor is not an acceptable substitute for the property insurance a borrower is required to provide. A builder's risk policy should automatically convert to full coverage when the dwelling is completed. Otherwise, acceptable insurance must be obtained to coincide with the expiration of the builder's risk provisions of the policy.

(C) Flood insurance is required for all structures located in special flood hazard areas where the U.S. Federal Emergency Management Agency (FEMA) has mandated flood insurance coverage. The Department will require a life of loan flood certification on all loans. The Department is not originating the loan, but rather purchasing the loan. The flood certification must be part of the Submission or Funding Package and must be transferred to the Department. Flood insurance is not required if the Technical Assistance Provider or Owner-Builder applicant obtains a Letter of Map Amendment from FEMA stating that the area is no longer classified as a special flood hazard area. The letter must include a map illustrating the amended flood hazard area. An Owner-Builder applicant may elect to obtain flood insurance even though flood insurance is not required. However, the Owner-Builder applicant may not be coerced into obtaining flood insurance unless it is required in accordance with this section. Evidence of insurance must be obtained prior to loan funding. Insurance premiums for at least 12 months must be paid in advance. The Department must be named as loss payee or the policy must be endorsed to the Department.

§2.17. Nonprofit Owner-Builder Housing Program (NOHP) Certification.

(a) Definitions and Terms. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Applicant--A private nonprofit organization that has submitted a request for certification as a NOHP to the Department. An Applicant for the Texas Bootstrap Loan Program must be a NOHP certified by the Department.

(2) Articles of Incorporation--A document that sets forth the basic terms of a corporation's existence and is the official recognition of the corporation's existence. The documents must evidence that they have been filed with the Secretary of State.

(3) Bylaws--A rule or administrative provision adopted by a corporation for its internal governance. Bylaws are enacted apart from the articles of incorporation. Bylaws and amendments to bylaws must be formally adopted in the manner prescribed by the organization's articles or current bylaws by either the organization's board of

directors or the organization's members, whoever has the authority to adopt and amend bylaws.

(4) Resolutions--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws.

(b) Application Procedures for Certification of NOHP. An Applicant requesting certification as a NOHP must submit an application for NOHP certification in a form prescribed by the Department. The NOHP application must be submitted prior to submitting an application for Texas Bootstrap Loan Program funding, and be must recertified every three years. The application must include documentation evidencing the requirements of this subsection.

(1) Applicant must have the following legal status at the time of application to apply for certification as a NOHP:

(A) The applicant must be organized as a private nonprofit organization under the Texas Nonprofit Corporation Act or other state not-for-profit/nonprofit statute as evidenced by Charter or Articles of Incorporation.

(B) The Applicant must be registered with the Secretary of State to do business in the State of Texas.

(C) No part of the private nonprofit organization's net earnings may inure to the benefit of any member, founder, contributor, or individual, as evidenced by Charter or Articles of Incorporation.

(D) The Applicant must have the following tax status:

(i) A current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective while certified as a NOPH, or

(ii) Classification as a subordinate of a central organization non-profit under the Internal Revenue Code §501(c)(3), as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant.

(iii) A private nonprofit organization's pending application for §501(c)(3) status cannot be used to comply with the tax status requirement under this subparagraph.

(E) The Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's Charter, Articles of Incorporation, Resolutions or Bylaws:

(2) An Applicant must have the following capacity and experience listed in subparagraphs (A) - (C) of this paragraph.

(A) Conforms to the financial accountability standards of 24 CFR 84.21, "Standards of Financial Management Systems" as evidenced by:

(i) notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department; or

(ii) certification from a Certified Public Accountant.

(B) Has a demonstrated capacity for carrying out activities assisted with Texas Bootstrap Loan Program funds, as evidenced by resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with Texas Bootstrap Loan Program funds; or contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with Texas Bootstrap Loan Program funds, to train appropriate key staff of the organization.

(C) Has a history of serving the community within which housing to be assisted with Texas Bootstrap Loan Program funds is to be located as evidenced by:

(i) statement that documents at least one year of experience in serving the community; or

(ii) for newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year of experience in serving the community.

(iii) The NOHP or its parent organization must be able to show one year of serving the community prior to the date the Department provides funds to the organization. In the statement, the organization must describe its history (or its parent organization's history) of serving the community by describing activities which it provided (or its parent organization provided), such as, developing new housing and rehabilitating existing stock. The statement must be signed by the president or other official of the organization.

(3) An Applicant must have the following organizational structure:

(A) written provision or statement in the organizations By-laws, Charter or Articles of Incorporation;

(B) affidavit in a form prescribed by the Department signed by the organization's Executive Director and notarized; and

(C) current roster of all Board of Directors, including names and mailing addresses.

(D) A local or state government and/or public agency cannot qualify as a NOHP, but may sponsor the creation of a NOHP.

(4) Religious or Faith-based Organizations may sponsor a NOHP if the NOHP meets all the requirements of this section. While the governing board of a NOHP sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the faith-based organization may retain control over appointments to the board. If a NOHP is sponsored by a religious organization, the following restrictions also apply:

(A) Housing developed must be made available exclusively for the residential use of program beneficiaries and must be made available to all persons regardless of religious affiliations or beliefs;

(B) A religious organization that participates in the Texas Bootstrap Loan program may not use Texas Bootstrap Loan Program funds to support any inherently religious activities such as worship, religious instruction, or proselytizing;

(C) Texas Bootstrap Loan Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Sanctuaries, chapels, or other rooms which a faith-based NOHP uses as its principal place of worship are always ineligible.

(D) Compliance with subparagraphs (A) - (C) of this paragraph may be evidenced by the Organizations By-laws, Charter or Articles of Incorporation.

(c) The Department may certify NOHP's meeting all of the above criteria operated by a tax-exempt organization listed under §501(c)(3), Internal Revenue Code of 1986 to:

(1) qualify potential Owner-Builders for loans under this chapter;

(2) provide Owner-Builder education classes;

(3) assist Owner-Builders in building housing; and

(4) originate and/or service loans made under this chapter.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 17, 2006.

TRD-200605627

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 475-4595



CHAPTER 3. COLONIA SELF-HELP CENTER PROGRAM

10 TAC §3.1 - 3.18

The Texas Department of Housing and Community Affairs (the Department) proposes new §§3.1 - 3.18, concerning the Colonia Self-Help Center Program. The new sections are proposed in order to conform to Subchapter Z of Chapter 2306 of the Texas Government Code.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Michael Gerber has also determined that for each year of the first five-years the sections are in effect the public benefit anticipated as a result of enforcing the sections will enhance the State's ability to provide decent, safe and sanitary housing for Texans. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Public hearings will be held across the state between October 30 and November 9, 2006 to receive input on these proposed new rules. More information on the hearings can be found at <http://www.tdhca.state.tx.us/hearings.htm>. Comments may be submitted to Homero Cabello, Director Office of Colonia Initiatives Division, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941. Comments must be made within 30 days of this notice.

The new sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, articles or statutes are affected by these new sections.

§3.1. Purpose and Services.

(a) The purpose of this chapter is to establish the requirements governing Colonia Self-Help Centers, created pursuant to Subchapter Z of Chapter 2306 of the Texas Government Code and its funding including the use and administration of all funds provided to the Texas Department of Housing and Community Affairs by the legislature of the annual Texas Community Development Block Grant allocation from the United States Department of Housing and Urban Development. Colonia Self-Help Centers are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home in the colonias' designated service area or in another area the Department has determined is suitable.

(b) A Colonia Self-Help Center shall set a goal to improve the living conditions of residents in the colonias designated under §2306.586(b) of the Texas Government Code within a two-year period after a contract is awarded.

(c) A Colonia Self-Help Center may serve individuals and families of low-income and very low-income by:

(1) providing assistance in obtaining loans or grants to build a home;

(2) teaching construction skills necessary to repair or build a home;

(3) providing model home plans;

(4) operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in colonias who are building or repairing a residence or installing necessary residential infrastructure;

(5) helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a colonia, including potable water, wastewater disposal, drainage, streets, and utilities;

(6) surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;

(7) providing credit and debt counseling related to home purchase and finance;

(8) applying for grants and loans to provide housing and other needed community improvements;

(9) providing other services that the Colonia Self-Help Center, with the approval of the Department, determines are necessary to assist colonia residents in improving their physical living conditions, including help in obtaining suitable alternative housing outside of a colonia's area;

(10) providing assistance in obtaining loans or grants to enable an individual or a family to acquire fee simple title to property that originally was purchased under a contract for a deed, contract for sale, or other executory contract;

(11) providing access to computers, the internet and computer training pursuant to Rider 14, General Appropriations Act; and

(12) providing monthly programs to educate individuals and families on their rights and responsibilities as property owners.

(d) A Colonia Self-Help Center may not provide grants, financing, or mortgage loan services to purchase, build, rehabilitate, or finance construction or improvements to a home in a colonia if water service and suitable wastewater disposal are not available.

(e) Through a Colonia Self-Help Center, a colonia resident may apply for any direct loan or grant program operated by the Department.

(f) Ineligible activities. Any type of activity not allowed by the federal Housing and Community Development Act of 1974, (42 United States Code §5301 et seq.) is ineligible for funding.

§3.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Applicant--A unit of general local government who is preparing to submit or has submitted a Proposal for Colonia Self-Help Center funds.

(2) Board--The governing board of the Texas Department of Housing and Community Affairs.

(3) C-RAC--Colonia Residents Advisory Committee.

(4) Contract Budget--The exhibit of a contract which specifies in detail the contract funds by budget category, which is used in the drawdown processes. The budget also includes all other funds involved that are necessary to complete the performance statement specifics of the contract.

(5) Colonia--A geographic area located in a county some part of which is within 150 miles of the international border of this state and that:

(A) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under §17.921, Water Code.

(B) has the physical and economic characteristics of a colonia, as determined by the Department and was in existence as a colonia prior to November 28, 1990.

(6) Community Action Agency--A political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. §9902.

(7) Community Development Block Grant (CDBG) nonentitlement area funds--The funds awarded to the State of Texas pursuant to the Housing and Community Development Act of 1974, Title I, as amended, (42 United States Code §5301 et seq.) and the regulations promulgated thereunder in 24 Code of Federal Regulations Part 570.

(8) Contract--A written agreement including all amendments thereto, executed by the Department and Contractor which is funded with Community Development Block Grant nonentitlement area funds.

(9) Contractor--A unit of general local government with which the Department has executed a contract.

(10) County--A unit of general local government eligible to administer Colonia Self-Help Center funds.

(11) Department--The Texas Department of Housing and Community Affairs.

(12) Executive Director--The Executive Director of the Department.

(13) HUD--The United States Department of Housing and Urban Development, or its successor.

(14) Implementation Manual--A set of guidelines designed to be an implementation tool for the Contractor that have been awarded Community Development Block Grant Funds and allows the contractor to search for terms, rules, procedures, forms and attachments.

(15) Income Eligible Families--

(A) Low-and moderate income families means families whose annual incomes do not exceed 80% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

(B) Very low-income families means families whose annual incomes do not exceed 50% of the median family income for the area, as determined by HUD and published by the Department, with adjustments for family size.

(16) Needs assessment--The county must prepare a demographic and characteristics study of the colonias residing in the target area and the housing needs that the Colonia Self-Help Center is designed to address, using qualitative and quantitative information and other source documentation.

(17) Nonentitlement area--An area which is not a metropolitan city or part of an urban County as defined in 42 United States Code, §5302.

(18) Nonprofit organization--A public or private organization that:

(A) is organized under state or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) has a current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, or §501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization nonprofit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS;

(D) a private nonprofit organization's pending application for 501(c) (3) or (c) (4) status cannot be used to comply with the tax status requirement.

(19) Open Cycle--A defined period during which Proposals may be submitted and which will be reviewed on a first come first serve basis until all funds are committed. Each Proposal will be assigned a "received date" based on the date and time it is physically received by the Department and will be reviewed in accordance with §3.11 - §3.13 of this chapter.

(20) ORCA--The Office of Rural Community Affairs.

(21) PER--Performance Evaluation Report produced by the Unit of local government which should include up-to-date accomplishments in quarterly reports identifying cumulative data including the colonias served, activities performed and total number of beneficiaries.

(22) Performance Statement--The exhibit of a contract which specifies in detail the scope of work to be performed by eligible activity as noted in §3.1 of this chapter.

(23) Poverty--The current official poverty line established by the Director of the Federal Office of Management and Budget.

(24) Primary beneficiary--A Low or Moderate income person or family.

(25) Proposal--A written request for Colonia Self-Help Funds in the format required by the Department.

(26) Unit of General Local Government--A city, town, county, or other general purpose political subdivision of the State; a consortium of such subdivisions recognized by HUD in accordance with 24 CFR §92.101 and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction. A county is considered a unit of general local government under the Colonia Self-Help Center Program.

§3.3. Colonia Self-Help Centers Establishment.

(a) Pursuant to §2306.582 of the Texas Government Code, the Department has established Colonia Self-Help Centers in El Paso, Hidalgo, Starr, Webb, and in Cameron Counties. The Cameron County facility also serves Willacy County. If the Department determines it necessary and appropriate, the Department may establish a Colonia Self-Help Center in any other county if the county is designated as an economically distressed area under Chapter 17, Water Code, for purposes of eligibility to receive funds from the Texas Water Development Board. The Department has deemed it necessary and appropriate to establish additional Colonia Self-Help Centers in Maverick and Val Verde Counties.

(b) The Department attempts to secure contributions, services, facilities, or operating support from the commissioners court of the county in which the Colonia Self-Help Centers are located to support the operation of the Colonia Self-Help Centers.

(c) The El Paso Colonia Self-Help Center shall establish a technology center to provide internet access to colonia residents pursuant to Rider 14 of the General Appropriations Act of the 79th Legislature Regular Session.

§3.4. Colonia Self-Help Centers Designation.

(a) The Department shall designate:

(1) a geographic area for the services provided by each Colonia Self-Help Center; and

(2) In consultation with the Colonia Residents Advisory Committee and the appropriate unit of local government and Colonia Self-Help Center, the Department shall designate five colonias in each service area to receive concentrated attention from the Colonia Self-Help Centers.

(b) In consultation with the Colonia Residents Advisory Committee and the appropriate unit of local government and Colonia Self-Help Center, the Department may change the designation of colonias made under subsection (a)(2) of this section.

§3.5. Colonia Residents Advisory Committee.

(a) The Board shall appoint not fewer than five persons who are residents of colonias to serve on the Colonia Residents Advisory Committee. The members of the Colonia Residents Advisory Committee shall be selected from lists of candidates submitted to the Department by local nonprofit organizations and the commissioners court of a county in which a Colonia Self-Help Center is located.

(b) The Board shall appoint one committee member to represent each of the counties in which a Colonia Self-Help Center is located. Each committee member:

(1) must be a resident of a colonia in the county the member represents; and

(2) may not be a board member, contractor, or employee of or have any ownership interest in an entity that is awarded a contract under this chapter.

(c) The Department may also select to have an alternate member from the list for each county in the event that the primary member is unable to attend meetings. Both may attend meetings but if both are present the alternate shall not cast a vote.

§3.6. Duties of the Colonia Residents Advisory Committee.

(a) The Colonia Residents Advisory Committee shall advise the Board regarding:

(1) the needs of colonia residents;

(2) appropriate and effective programs that are proposed or are operated through the Colonia Self-Help Centers; and

(3) activities that may be undertaken through the Colonia Self-Help Centers to better serve the needs of colonia residents.

(b) The Colonia Residents Advisory Committee shall meet before the 30th day preceding the date on which a contract is scheduled to be awarded by the Board for the operation of a Colonia Self-Help Center and may meet at other times.

(c) The Colonia Residents Advisory Committee shall advise the colonia initiatives coordinator as provided by §775.004 of the Texas Government Code.

§3.7. Operation of Colonia Self-Help Center.

(a) The Department shall contract with a unit of general local government for the operation of a Colonia Self-Help Center. The unit of general local government shall subcontract with a local nonprofit organization, local community action agency, or local housing authority that has demonstrated the ability to carry out the functions of a Colonia Self-Help Center under this chapter.

(b) The Department and the Colonia Self-Help Center may apply for and receive public or private gifts or grants to enable the centers to achieve their purpose.

§3.8. Department Liaison to Colonia Self-Help Centers.

(a) The Department shall designate appropriate staff in the Department to act as liaison to the Colonia Self-Help Centers to assist the centers in obtaining funding to enable the centers to carry out the centers' programs.

(b) The Department shall make a reasonable effort to secure an adequate level of funding to provide the Colonia Self-Help Center with funds for low interest mortgage financing, grants for self help programs, a revolving loan fund for septic tanks, a tool lending program, and other activities the Department determines are necessary.

§3.9. Colonia Self-Help Center Set-Aside Fund.

(a) The Department shall establish a fund in the Department designated as the colonia set aside fund.

(b) The Department may use money in the colonia set aside fund for specific activities that assist colonias, including:

(1) the operation and activities of the Colonia Self-Help Centers established under this chapter; or

(2) reimbursement of Colonia Residents Advisory Committee members for their reasonable travel expenses in the manner provided by Article 6252.33, Revised Statutes, and the General Appropriations Act; and

(3) funding for the provisions of water and sewer service connections.

(c) The Department may review and approve a Proposal for funding from the colonia set aside fund that advances the policy and goals of the state in addressing problems in the colonias.

§3.10. Allocation of Colonia Self-Help Center Funds.

(a) The Colonia Self-Help Center is funded through a set-aside of the legislature from the annual Community Development Block Grant allocation.

(b) The Department allocates the Colonia Self-Help Center funds on an annual basis to eligible Counties pursuant to §3.3 of this chapter.

§3.11. Distribution of Funds and Proposal Requirements.

(a) The Department distributes Colonia Self-Help Center funds to counties from the 2.5% set-aside of the annual Community Development Block Grant allocation.

(b) The 2.5% set-aside from the Community Development Block Grant allocation is distributed to a county through the following means:

(1) The county submits its Proposal ninety (90) days before the latter of the expiration of its current contract, or when 90% of the funds under the current contract have been expended along with the needs assessment during the open cycle.

(2) Reviews are conducted on a first come first serve basis until all funds are committed. Each Proposal will be assigned a "received date" based on the date and time it is physically received by the Department and will be reviewed in accordance with §3.12 and §3.13 of this chapter.

(3) The Department allocates no more than \$1.2 million per Colonia Self-Help Center contract. If there are insufficient funds available from any specific program year to fully fund a Proposal, then the affected Applicant may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the Community Development Block Grant set-aside allocation from the next year.

(c) The county shall complete a needs assessment for each of the selected colonias as outlined under §3.4 of this chapter.

(d) Upon completion of the needs assessments, the county shall publish a Request for Proposals (RFP) for a Colonia Self-Help Center operator and review, score and gain the approval of commissioners' court for the operation of a Colonia Self-Help Center within its respective area.

(e) The county shall establish a Colonia Self-Help Center to provide any or all of the activities outlined under §3.1(c) of this chapter so long as the activities provided by the Colonia Self-Help Center are in line with the results of the needs assessments. Proposals must cover the following categories:

(1) Description of Colonias to be Served. Information should be sufficient to present an accurate picture of the areas to be served (i.e. number of houses, number of residents, platted/unplatted, water, wastewater disposal, utilities, housing conditions, etc.)

(2) Scope of Work. Based on the results obtained by the needs assessments, the county shall develop a scope of work for each selected colonia. In order to provide these services, the county shall be required to leverage funds, coordinate with financial institutions, prepare grant applications and coordinate with their contracted partners.

(3) Method of Implementation. For each colonia to be served by the Colonia Self-Help Center, the county shall describe the services and activities to be delivered. The county shall describe the years of experience and accomplishments relating to affordable

housing projects within the last three years of the organization recommended by the county to operate and manage the daily operation of the Colonia Self-Help Center.

(4) Results. The county must include number of colonia residents to be assisted from each colonia. The county must also specify with Colonia Self-Help Center funds the number of houses to be rehabilitated, number of houses to be reconstructed, number of technical assistance visits, number of grant applications to be submitted for possible leverage, number of checkouts from the tool lending library, etc.

(f) Upon approval from commissioner's court; the county shall submit a Proposal to the Department along with a copy of its needs assessment.

§3.12. Colonia Self-Help Center Process of Awards.

(a) Upon receipt of the Proposal and needs assessment, the Department will perform an initial review to determine whether the Proposal is complete. Proposed activities must identify a proposed funding amount and determine that the activities being funded under the Colonia Self-Help Center are eligible under §3.1(c) of this chapter and §105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. §5305(a)). The Proposal must also show how each activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. §5304(b)(3)).

(b) The Department may reduce the proposed funding amount. Should this occur, the Department shall notify the appropriate county within ten working days of receipt of the Proposal. The Department and the county will work together to jointly agree on the performance measure and proposed funding amounts for each activity.

(c) Upon reaching an agreement with the county, the Department will set a Colonia Residents Advisory Committee meeting. The Colonia Residents Advisory Committee shall meet before the 30th day preceding the date on which a contract is scheduled to be awarded by the Board for the operation of a Colonia Self-Help Center and may meet at other times.

(d) The Department will forward the proposed Performance Statement, Budget and needs assessment to each Colonia Residents Advisory Committee member for its review at least seven calendar days before the scheduled meeting date.

(e) The county is expected to be present at the Colonia Residents Advisory Committee meeting if its Proposal is being considered for a recommendation to the Board for an award. The county shall be available to answer questions that the Colonia Residents Advisory Committee may have on its Proposal.

(f) After the Colonia Residents Advisory Committee makes a recommendation, the recommendation will move forward for the standard award process including Department Review which is anticipated to take a minimum of three weeks.

(g) The county whose Proposal is being presented to the Board shall be required to be present at the Board Meeting.

(h) The Department shall execute four year contracts as required by §2306.587(a) of the Texas Government Code.

§3.13. Threshold Selection Criteria.

(a) At a minimum, the following threshold selection criteria will be utilized in evaluating the Proposals for the Colonia Self-Help Center.

(1) Needs Assessment. The Proposal must meet the demographic, and characteristics of the selected colonias and the needs that

the Colonia Self-Help Center is designed to deliver the activities as described in §3.1 of this chapter.

(2) Program Design. Whether the proposed project meets the needs identified in the needs assessment, whether the design is complete and whether the project fits within the community setting. Information required includes, but is not limited to: community involvement; scope of program; income and population targeting; marketing, fair housing and relocation plans and other items as the Department deems applicable.

(3) Capacity of Colonia Self-Help Center provider. The selected Colonia Self-Help Center provider selected by the county must have the capacity to administer and manage financial resources, as evidenced by previous experience of managing state and/or federal programs based on one or more of the following preferred experience:

(A) three (3) years experience in provision of affordable housing, including new construction; and housing rehabilitation; and experience in homebuyer and down payment assistance programs.

(B) three (3) years experience in grantsmanship, project planning and development in housing and infrastructure, and project management.

(C) three (3) years experience in homeownership counseling, home loan processing and coordinating with private financial institutions.

(D) three (3) years experience in property development, including experience in processes related to surveying, platting, and recording of property.

(E) three (3) years experience in self-help programs related to housing or infrastructure, including operation of a tool library.

(F) three (3) years experience in managing state/federally funded projects or projects funded under private foundations and not have major outstanding monitoring or audit issues.

(b) Administrative Costs for Colonia Self-Help Center. Each county is required to contract with a nonprofit organization, community action agency and/or housing authority to provide staff, office space and equipment (computer, facsimile, telephone, copier, etc.) necessary for full operation of the Colonia Self-Help Center.

(1) the county must determine a reasonable amount of administrative costs, and work with the selected Self-Help Center provider to determine a reasonable amount of operational cost not to exceed twenty (20%) percent which must be included in its Proposal. Costs should also include costs associated with salaries, travel, supplies, training, subscriptions, utilities, rent and other related services for both the county and Colonia Self-Help Center provider.

(2) a cost allocation plan (indirect cost) will not be accepted under this program.

(3) cost incurred by colonia self-help center employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the State Comptrollers Travel Allowance Guide.

§3.14. Expenditure Threshold Requirements.

(a) A county that has a current contract must meet the following expenditure threshold requirements:

(1) 6-Month Milestone. Any County that has not begun any project activities within six months after contract execution will have its funds subject to deobligation. The county will be evaluated

after the first six months of the contract period for progress made to carry out project activities.

(2) 12-Month Milestone. The county must expend at least thirty (30%) percent of the total Colonia Self-Help Center funds awarded within twelve (12) months from the start date of the contract.

(3) 24-Month Milestone. The county must expend at least sixty percent (60%) of the total Colonia Self-Help Center funds.

(4) 36-Month Milestone. In order to meet this requirement the county must expend at least ninety percent (90%) of the total Colonia Self-Help Center funds.

(5) 50-Month Milestone. If a county has a contract that is 48 months old or older, one hundred percent (100%) of all activities have completed all contract fund requests, and a Certificate of Completion report (which documents the expenditure of all Colonia Self-Help Center funds utilized for contract activities and does not include any reserved funds other than the funds needed to pay for a final audit) must be submitted to the Department. To meet this threshold, all the Colonia Self-Help Center funds needed for the contract activities, except for the reserved audit funds, must be expended in order to be considered for future funding.

(b) If these thresholds are not met, the Department will apply the options outlined in §3.17 of this chapter.

§3.15. Contract Delivery Administration.

(a) Upon approval of Colonia Self-Help Center funds by the Board, the Department shall work with the county to deliver a fully executed contract based on the work to be performed with milestones beginning sixty days of award date.

(b) Environmental. Before any funds can be disbursed environmental clearance must be approved by the Department.

(c) Amendments. Any alterations, additions, or deletions to the terms of the contract shall be submitted in writing to the Department. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any Colonia Self-Help Center Proposal or written agreement provided that:

(1) in case of a modification or amendment to the dollar amount of the request or award, such modification or amendment does not increase the dollar amount by more than 25% of the original request or award, or \$50,000, whichever is greater;

(2) in the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award; and

(3) Modifications and/or amendments that increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; or significantly decreases the benefits to be received by the Department in the estimation of the Executive Director, will be presented to the Board for approval.

(d) Request for Payments. The county shall submit a properly completed request for reimbursement form, as specified by the Department, on a monthly basis. The Department shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment until the Department has reviewed and approved such request. Payments under the contract are contingent upon the county's full and satisfactory performance of its obligations under the contract.

(e) All eligible activities must meet a national objective and have a corresponding budget line item in the budget. This requirement

will be clearly reflected in the performance statement and budget of the contract.

(f) Reporting. The county shall submit to the Department such reports on the operation and performance of the contract as may be required by the Department. Quarterly reports shall be due no later than the twentieth (20th) day of the month after the end of each calendar quarter.

(1) the county shall maintain and submit to the Department up to date accomplishments in quarterly reports identifying quantity and cumulative data including the colonias served, activities performed and total number of beneficiaries.

(2) the county shall submit and maintain program information at the detailed project activity level such as how many low and moderate-income households reside in safe, decent housing, and the number of years of affordability created for these households.

(g) Inspections. All housing rehabilitation and new construction activities must be inspected by an independent licensed inspector to ensure the house is complete, safe and meets at a minimum Colonia Housing Standards. All items noted by the independent licensed inspector must be corrected and repaired. Once all items are corrected a re-inspection will be required.

§3.16. Manufactured Homes Installed in Colonias.

(a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by §1201.003, Occupations Code and in accordance to §2306.591 of the Texas Government Code.

(2) the home must be habitable, as described by §1201.453, Occupations Code.

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under §2306.142, Texas Government Code unless the owner complies with subsection (a) of this section.

§3.17. Suspension.

(a) Suspension. In the event the county fails to comply with any term of the contract, the Department may, upon written notification to the county, suspend the contract in whole or in part and withhold further payments to the county, and prohibit the county from incurring additional obligations of funds under the contract. If a suspension continues it could move to Sanction/Deobligation under §3.18 of this chapter.

(b) The Department reserves the right to take all allowable actions to enforce the terms of the contract.

(c) Potential allowable actions are covered by Board policy or rules.

§3.18. Sanction/Deobligation.

(a) Sanction/Deobligation funds. The Department reserves the right to apply appropriate graduated sanctions leading up to, but not limited to, deobligation of funds and future debarment from participating in the program in the following situations:

(1) county has any unresolved compliance issues on existing or prior contracts with the Department;

(2) county fails to set-up programs/projects or expend funds in a timely manner;

(3) county defaults on any agreement by and between the county and the Department;

(4) county misrepresents any facts to the Department during the Proposal process, award of contracts, or administration of contract;

(5) county is unable to provide adequate financial support to administer the contract or withdrawal of significant financial support;

(6) county fails to expend all funds awarded.

(b) The Department may exercise other compliance or enforcement rules as appropriate.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 16, 2006.

TRD-200605592

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-4595



TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 2. INFORMAL COMPLAINT PROCEDURE

16 TAC §2.1

The Railroad Commission of Texas proposes new §2.1, relating to Informal Complaint Procedure, in new Chapter 2, entitled Informal Complaint Procedure, of Title 16 of the Texas Administrative Code.

Through a rider to the 2006 - 2007 appropriations bill, the Texas Legislature required the Railroad Commission of Texas to conduct a study that examines and determines the extent to which viable competition exists in the Texas natural gas pipeline industry from wellhead to burner tip. The study must recommend solutions to bring market competition to any non-competitive segments of the industry. The study must also include an assessment of the effectiveness of current laws, regulations, enforcement and oversight in addressing abuses of pipeline monopoly power and make recommendations for changes that may be necessary. In addition, the study must include a comparative review of competition in the Texas interstate pipeline industry administered by the Federal Energy Regulatory Commission. The Railroad Commission must submit a report of its findings to the Legislative Budget Board and the Governor on or before November 1, 2006.

The Commission conducted a series of workshops to establish a dialogue between the Commission and representatives of all sectors of the natural gas industry; receive feedback from affected parties to determine the extent to which viable competition exists in the Texas natural gas pipeline industry; gather factual

data; request input regarding solutions to identified problems; and encourage affected entities to use the Commission's informal complaint resolution process to resolve conflicts. Meetings were held in the following cities on the dates indicated: Amarillo (District 10), November 15, 2005; San Antonio (Districts 1, 2, and 4), November 17, 2005; Midland (Districts 8 and 8A), November 21, 2005; Abilene (Districts 7B and 7C), November 22, 2005; Houston (Districts 3 and 6), December 5, 2005; Dallas (Districts 5 and 9), December 7, 2005; and Kilgore (Districts 5 and 6), January 12, 2006.

In addition, by rule effective April 3, 2006, the Commission established the Natural Gas Pipeline Competition Study Advisory Committee. (See Texas Register (31 TexReg 2850); 16 Tex. Admin. Code §7.7201.) The purpose of the committee is to give the Commission the benefit of the members' collective business, technical, and operating expertise and experience to help the Commission review competition in the Texas intrastate pipeline industry, assess the effect of current statutes and rules on such competition, and develop recommendations for changes to statutes or rules that may be necessary. The Commission announced the appointment of the members of the Natural Gas Pipeline Competition Study Advisory Committee on April 11, 2006, and charged the Committee with evaluating, among other things, whether further improvements to the Commission's informal complaint process are warranted. The Committee met ten times between May 1 and June 30, 2006; submitted its report on June 30, 2006; and formally presented the report to the Commission in open meeting on July 31, 2006.

The report contained the Committee's recommendations regarding the Commission's informal complaint process, among them:

(1) that the Commission's proposed enhancements to the informal complaint procedure be adopted, with slight modifications proposed by the Committee;

(2) that the rule codifying the informal complaint procedure provide that the informal complaint process applies to *all* complaints about natural gas purchasing, selling, shipping, transportation, and gathering;

(3) that the informal complaint procedure allow the parties to agree to employ and pay an independent mediator rather than being required to use Commission staff;

(4) that the Commission publicize the informal complaint process in a manner it believes will be effective to reach a majority of natural gas producers, and inform and encourage producers and industry trade associations to promote the informal complaint process as a low-cost mechanism for resolving complaints regarding the transportation, treatment, and sale of natural gas; and

(5) that the Commission include a clear policy statement in the informal complaint procedure rule to assure all natural gas purchasers, sellers, shippers, transporters and gatherers that the Commission is committed to a process that is fair, timely, and affordable. The Committee included with its report a draft informal complaint procedure rule that incorporated its recommendations.

The Commission proposes the new rule to enhance the Commission's existing informal complaint resolution procedure, as recommended by the Committee. The rule would codify the existing procedure, and clarify that it applies to all complaints about natural gas purchasing, selling, shipping, transportation, and gathering. The proposed rule includes a clear policy statement that assures all natural gas purchasers, sellers, shippers, transporters,

and gatherers that the Commission is committed to a process that is fair, timely, and affordable.

The Commission proposes new §2.1 in new Chapter 2 to help ensure that the rule is easy to find for both complainants and respondents. Proposed new subsection (a) states the scope and jurisdiction. The proposed new section will apply to any complaint within the Commission's jurisdiction, including but not limited to complaints about natural gas purchasing, selling, shipping, transportation, and gathering practices. This section does not apply to matters arising under Texas Utilities Code, Chapter 103, entitled "Jurisdiction and Powers of Municipality," or initiated under Texas Utilities Code, Chapter 104, Subchapter C, entitled "Rate Changes Proposed by Utility," or Subchapter G, entitled "Interim Cost Recovery and Rate Adjustment."

Proposed new subsection (b) contains definitions of 18 terms. Many of the terms are defined here the same or similarly as in the Commission's rule 16 Tex. Admin. Code §7.115, relating to Definitions, and are used in 16 Tex. Admin. Code §7.7001, relating to Natural Gas Transportation Standards and Code of Conduct. New terms defined in this proposed new rule include "gatherer" (a person providing gathering service for a fee for a third party); "gathering service" (a pipeline that collects gas and brings it to a common point); "mediator" (the individual who conducts an informal complaint resolution mediation); "monitor" (the Commission employee appointed by the director to manage an informal complaint proceeding and/or assist a mediator who is not a Commission employee in the management of an informal complaint proceeding; a monitor may also be a mediator); "transporter" (a person providing transportation service for a fee for a third party); and "transportation service" (the receipt of a shipper's natural gas at a point or points on a transporter's facilities and re-delivery of a shipper's natural gas by the transporter at another point or points on the transporter's facilities or on another person's facilities, including exchange, backhaul, displacement, and other methods of transportation).

Proposed new subsection (c) states the Commission's policy, which is to encourage the resolution and expedient settlement of disputes regarding natural gas purchasers, sellers, transporters, and gatherers and to prevent discrimination among similarly situated shippers and sellers as is prohibited by the Texas Natural Resources Code, Chapter 111, entitled "Common Carriers, Public Utilities, and Common Purchasers," and Texas Utilities Code, Title 3, Subtitle A, entitled "Gas Utility Regulatory Act," and Subtitle B, entitled "Regulation of Transportation and Use," and other matters of dispute subject to the Commission's jurisdiction. This section is adopted in furtherance of that policy.

To accomplish the policy set out in this section, Commission employees, acting pursuant to the proposed new section, will attempt to facilitate, encourage, and promote resolution and settlement of disputes among natural gas purchasers, sellers, shippers, transporters, gatherers, and other persons subject to the Commission's jurisdiction consistent with the public interest and without lengthy and potentially expensive formal proceedings. The informal complaint procedure is intended to establish a forum for communication, with the goal of achieving mutually acceptable compromise and resolution that is in the public interest.

Proposed new subsection (d) sets forth the general requirements and limitations. The Commission will not process anonymous complaints under the proposed new section. The communications, records, conduct, and demeanor of the participants in each informal complaint proceeding will be confidential and handled in

accordance with Texas Government Code, §2009.054, entitled "Confidentiality of Certain Records and Communications."

A mediator must have completed 40 hours of Texas mediation training that meets the standards of the Texas Alternative Dispute Resolution Procedures Act, as set out in Texas Government Code, §154.052, and must follow the ethical guidelines for mediators adopted by the Alternative Dispute Resolution Section of the State Bar of Texas. A mediator may be either a Commission employee or a non-Commission employee. If the complainant and respondent submit a written request to the director agreeing to share all costs of mediation, they may retain a non-Commission employee to conduct the mediation, and the director will appoint a Commission employee as a monitor. The monitor will act as a technical advisor to the non-Commission employee mediator and may, at the direction of the non-Commission employee mediator, participate in the informal complaint proceeding. A non-Commission employee mediator will have the same duties and obligations of a Commission employee mediator and may, in his or her sole discretion, compel the complainant and respondent to provide information.

Mediators and monitors may not communicate with a Commission hearings examiner or a Commissioner about any material or substantive aspect of a complaint or reply filed pursuant to this section. Each complainant and respondent in an informal complaint proceeding must cooperate fully in gathering and disclosing information requested by the mediator or monitor and must participate in good faith in all aspects of the informal complaint proceeding.

A natural gas purchaser, transporter, or gatherer may not discontinue or deny service to a shipper or seller during the pendency of an informal complaint proceeding in which both are participants unless one of the stated reasons applies for discontinuing service or unless the mediator determines that there is good cause in a particular case. A transporter, gatherer, or purchaser may not discriminate against a shipper or seller because the shipper or seller has, in good faith, filed an informal complaint at the Commission; filed a formal complaint at the Commission; instituted or caused to be instituted at the Commission any enforcement proceeding against a purchaser, transporter, or gatherer based on alleged violations of any rule or statute; or made inquiry to the Commission as to the facts or circumstances surrounding operation of a purchaser's, transporter's, or gatherer's system. The Commission may commence an enforcement action, initiated by the director of the Gas Services Division, for failure by the complainant or the respondent to comply with all provisions of the informal complaint proceeding.

Proposed new subsection (e) describes the steps in the informal complaint process. An informal complaint proceeding is initiated by filing a complaint with the Commission by either calling the Commission Helpline or submitting a written complaint by mail, fax, or internet submission. A complaint must include all the information specified in the rule. The director of the Gas Services Division will assign a complaint to a monitor, who will promptly contact the complainant to confirm receipt of the complaint, obtain any additional relevant and supporting documentation pertaining to the complaint, and advise the complainant of its right to have the complaint mediated by a Commission employee or by a non-Commission employee mediator.

After the monitor determines that the complainant has provided all required information, the monitor will notify the respondent of the complaint by mail and will include notice to the respondent of its right to have the matter heard by a non-Commission em-

ployee mediator pursuant to the agreement of the complainant and the respondent. The respondent must reply in writing to both the monitor and the complainant within 14 calendar days from the date of the monitor's notification letter and must address the substance of the complaint and either propose a solution or explain why the complaint is incorrect.

The complainant and the respondent will be given 14 calendar days from the date of the respondent's reply to resolve the complaint without the participation of a mediator. If the complainant and the respondent have made a good faith attempt to resolve the complaint but have been unable to do so, the monitor will determine whether either the complainant or the respondent or both want the matter referred to a Commission or non-Commission mediator and shall refer the matter back to the director of the Gas Services Division for appointment of a mediator.

Within 14 calendar days of being appointed, the mediator must review all information received from the complainant and respondent. The mediator may request additional information as necessary. At any time during an informal complaint procedure, the mediator may request and review documents or information the mediator considers pertinent to the complaint. The mediator will then furnish the complainant and respondent with a written summary of all relevant documents and information reviewed. The mediator's summary must not disclose confidential information.

The monitor will schedule a mediation meeting with the complainant and respondent, which the mediator will conduct, to occur within 14 calendar days after the date of the mediator's written summary, and will notify the complainant and respondent of the date, time and location of the meeting, which may be conducted at the headquarters of the Commission in Austin, Texas, in the Commission's offices in the district in which the complaint arises, or at any other location by agreement of the participants. The complainant and respondent are required to participate in the mediation meeting and undertake in good faith to settle all issues raised in the complaint. The complainant and respondent are required to make available during the mediation meeting, in person, representatives who are empowered to make decisions on their behalf.

If the mediation process does not result in a settlement of all issues during the period for mediation provided, after completing the mediation, the mediator will send a confidential memorandum to the complainant and the respondent that states one or more of the following conclusions, based on the information reviewed by the mediator. The mediator may conclude that the complaint does not involve a violation of a Commission rule or statute; that there are specific actions which, if taken by either the respondent or the complainant or both, could result in resolution of the complaint; or that a formal evidentiary hearing is warranted. Such a hearing may be either initiated by the director as a show cause proceeding or requested by either the complainant or the respondent.

Proposed new subsection (f) provides that the director of the Gas Services Division will maintain an internal report of all complaints received. The report will be circulated no less often than once every six months to the Commissioners, the executive director, and the general counsel. The specific points of the participants' discussions and any negotiated resolution will not be included in this internal report.

Stephen Pitner, Director, Gas Services Division, has determined that for each year of the first five years that the proposed rule will be in effect, there will be fiscal implications for state government

of approximately \$1,500 per year. The proposed rule contains a provision that allows entities involved in an informal complaint to meet for mediation at a location other than the Commission offices in Austin. Mr. Pitner has estimated that this provision will result in approximately three Staff trips per year at an estimated cost of \$500 per trip. The estimated travel cost is based on the assumption that each trip will require one Commission employee to stay overnight one night. The cost per trip of \$500 is based on the travel reimbursement guidelines of the State of Texas. The total includes \$100 for lodging, \$300 for airfare or driving expense, and \$100 for meals, parking, rental car, and other miscellaneous expenses. The Commission receives an average of 12 informal complaints per year. The analysis assumes that 25%, or three, of these complaints will require the Staff to travel outside of Austin to a mediation meeting. This cost will be borne within the current budget and with the current staff. Mr. Pitner has determined that there will be neither an increase nor a decrease in Commission revenue in each year of the first five years that the proposed rule will be in effect. There will be no fiscal implications for local governments.

Mr. Pitner has also determined that for each year of the first five years that the rule will be in effect the public benefit expected as a result of adoption of the proposed rule will be the availability of an alternative that is less expensive than a formal evidentiary proceeding for resolving all complaints regarding natural gas purchasers, sellers, shippers, transporters, and gatherers. Not only does the proposed rule codify the Commission's existing informal complaint procedure and clarify its applicability to all complaints, but it also enhances the existing process by (1) mandating the participation of complainants and respondents; (2) setting a reasonable deadline for dispute resolution; (3) providing necessary transparency and comparability of information through the discovery process; (4) giving parties the option of choosing a third-party mediator; (5) allowing parties to meet for mediation at a location of their choosing; and (6) prohibiting retaliation by purchasers, gatherers, and transporters against shippers and sellers for pursuing an informal complaint.

Mr. Pitner has also developed the following analysis of the probable economic cost to persons required to comply with the proposed rule for each year of the first five years that the rule will be in effect, as well as the analysis required by Texas Government Code, §2006.002. That statute requires a state agency considering adoption of a rule that would have an adverse economic effect on small businesses or micro-businesses to reduce the effect if doing so is legal and feasible considering the purpose of the statutes under which the rule is to be adopted. Before adopting a rule that would have an adverse economic effect on small businesses, a state agency must prepare a statement of the effect of the rule on small businesses, which must include an analysis of the cost of compliance with the rule for small businesses and a comparison of that cost with the cost of compliance for the largest businesses affected by the rule, using cost for each employee, cost for each hour of labor, or cost for each \$100 of sales. The statute defines "small business" as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has fewer than 100 employees or less than \$1 million in annual gross receipts. A "micro-business" is a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has not more than 20 employees. A sole proprietorship is assumed to consist of an individual owner who is the only employee. The following analyses are based

on the assumption that the owner of a sole proprietorship is the only employee; a micro-business has three employees; a small business has 50 employees; and a large business has 1,000 employees. Because the Commission does not collect from entities likely to be complainants and respondents any information about their labor costs or their sales revenues, the analyses of the cost of compliance and the impact on small businesses and micro-businesses are stated in the cost per employee, based on these assumptions.

The estimated travel cost is based on the assumption that each trip will require one employee to stay overnight one night. The cost per trip of \$500 is based on the travel reimbursement guidelines of the State of Texas. The total includes \$100 for lodging, \$300 for airfare or driving expense, and \$100 for meals, parking, rental car, and other miscellaneous expenses. The hourly cost for an employee of a complainant or respondent is based on information from the Texas Workforce Commission. For 2005, the average hourly wage for experienced workers in the oil and gas extraction industry was \$44. Based on evidence in recent rate cases at the Commission, the estimated cost for an outside consultant or attorney, an optional expense for complainants and respondents, is assumed to be \$200 per hour. Assuming 40 hours of work at this fee rate yields an expense of \$8,000.

The proposed rule allows a complainant and respondent to retain the services of an outside mediator, another optional expense. Based on conversations with the University of Texas Public Policy Center and Austin Dispute Resolution Center, the fee rate for an outside mediator (non-Commission employee) is assumed to be \$100 per hour. Based on 12 hours of work (one-half day of preparation and one day of mediation), this expense would be \$1,200. Under the proposed rule, all costs for an outside mediator must be shared by the complainant and respondent, so the cost for each would be \$600.

The analysis of the cost of compliance for a complainant includes the following assumptions: discussing the complaint with the Commission Staff would take one employee approximately one hour (\$44); filing the complaint and the supporting documentation would take one employee approximately three hours (\$132); evaluating the respondent's response to the complaint would take one employee approximately one hour (\$44); and travel to a mediation meeting would cost one employee approximately \$500. The following chart shows the approximate costs for a complainant in several scenarios:

Figure 1: 16 TAC Chapter 2 - Preamble

The analysis of the cost of compliance for a respondent includes the following assumptions: discussing the complaint with the Commission Staff would take one employee approximately one hour (\$44); filing the response to the complaint and the supporting documentation would take one employee approximately three hours (\$132); preparing and filing responses to Staff discovery requests (based on an estimate of 5 to 10 questions, for an average of 7.5 questions, and an estimate of two hours per question for completing the response) would take one employee approximately 15 hours (\$660); and travel to a mediation meeting would cost one employee approximately \$500. The following chart shows the approximate costs for a respondent in several scenarios:

Figure 2: 16 TAC Chapter 2 - Preamble

Of course, the actual costs will vary based on the complexity of the complaint; whether the complainant and respondent elect to engage the services of attorneys, consultants, or others; whether

it is necessary to convene a mediation meeting; whether the mediator is a Commission employee or not; whether it is necessary to travel and, if so, the distance and duration of the trip, the type of transportation, and the cost of the particular lodgings, meals, and other expenses. Costs for a respondent are likely to be higher than for a complainant in any particular complaint for two reasons. First, initiating a complaint is a voluntary act for a complainant, but responding to a complaint is mandatory. Second, there is a high probability that a respondent will be required to respond in discovery. While the costs for compliance are disproportionate between large and small businesses, the very process the rule embodies mitigates the adverse economic effect on sole proprietorships, small businesses, and micro-businesses. Those benefits include expeditious resolution of disputes without the expense associated with a more formal, litigious process and a streamlined, more enforceable alternative that allows the Commission to address abusive or discriminatory behavior.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.state.tx.us/rules/commentform.html; or by electronic mail to rulescoordinator@rrc.state.tx.us. The Commission will accept comments until 5:00 p.m., Monday, November 27, 2006, which is 31 days after publication in the *Texas Register*. Comments should refer to GUD No. 9694. The Commission has determined that a 30-day comment period provides interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing, as required by Texas Government Code, §2001.029(a), because a draft of the rule proposal has been available as part of the Natural Gas Pipeline Competition Study Advisory Committee's report, which has been posted on the Commission's web site since July 31, 2006. In addition, although the proposal will not be published in the *Texas Register* until Friday, October 27, 2006, the event that initiates the formal comment period, the text of this rule proposal, including the preamble, will be posted on the Commission's web site beginning Wednesday, October 11, 2006. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Danny Bivens, at (512) 475-1958. The status of Commission rulemakings in progress is available at <http://www.rrc.state.tx.us/rules/proposed.html>.

The Commission proposes the new section pursuant to Texas Natural Resources Code, Title 3, Subtitle D, Chapter 111, and specifically, Texas Natural Resources Code, §111.083, which requires common purchasers, as defined in Texas Natural Resources Code, §111.081(a)(2), to purchase or take the natural gas purchased or taken by it as a common purchaser under rules prescribed by the Commission in the manner, under the inhibitions against discriminations, and subject to the provisions applicable to common purchasers of oil; Texas Natural Resources Code, §111.086, which requires common purchasers to purchase without discrimination in favor of one producer or person against another producer or person in the same field and without unjust or unreasonable discrimination between fields in this state; Texas Natural Resources Code, §111.087, which prohibits common purchasers from discriminating between or against production of a similar kind or quality in favor of its own production; and Texas Natural Resources Code, §111.090, which authorizes the Commission to adopt rules that may be necessary to prevent discrimination. The Commission also

finds authority for the proposed rule in Texas Utilities Code, Title 3, Subtitle A, which authorizes the Commission to regulate gas utilities, to protect the public interest inherent in the rates and services of gas utilities, and to assure rates, operations, and services that are just and reasonable to the consumers and to the utilities; Texas Utilities Code, §102.003, which grants the Commission the power to require that gas utilities report to the Commission information relating to themselves and affiliated interests both within and without the State of Texas as it may consider useful in the administration of Title 3, Subtitle A (the Gas Utilities Regulatory Act); to require the filing with the Commission of, among other things, a copy of a contract or arrangement between a gas utility and an affiliate or a report filed with a federal agency or a governmental agency or body of another state; and to require that a contract or arrangement between a utility and an affiliate that is not in writing be reduced to writing and filed with the Commission; Texas Utilities Code, §104.003, which states that it is the duty of the Commission to ensure that every rate made, demanded, or received by any gas utility, or by any two or more gas utilities jointly, is just and reasonable, and directs that rates may not be unreasonably preferential, prejudicial, or discriminatory, but must be sufficient, equitable, and consistent in application to each class of consumers; Texas Utilities Code, §104.004, which prohibits a gas utility, as to rates or services, from making or granting any unreasonable preference or advantage to any corporation or person within any classification, or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage, and from establishing and maintaining any unreasonable differences as to rates of service either as between localities or as between classes of service; and Texas Utilities Code, §104.007, which prohibits gas utilities from discriminating against any person or corporation that sells or leases equipment or performs services in competition with the gas utility, and from engaging in any other practice that tends to restrict or impair that competition. Additional authority is found in Texas Utilities Code, Title 3, Subtitle B, and specifically, Texas Utilities Code, §121.104, which prohibits pipeline public utilities from discriminating in favor of or against any person, place or corporation, either in apportioning the supply of natural gas or in their charges therefor, and from directly or indirectly charging, demanding, collecting or receiving from any one a greater or less compensation for any service rendered than from another for a like and contemporaneous service; and Texas Utilities Code, §121.151, which directs the Commission to establish and enforce rules for transporting, producing, distributing, buying, selling, and delivering gas by pipelines subject to this chapter in this state, to establish fair and equitable rules and regulations for the full control and supervision of said gas pipelines and all their holdings pertaining to the gas business in all their relations to the public, and to prescribe and enforce rules and regulations for the government and control of such pipelines in respect to their gas pipelines and producing, receiving, transporting, and distributing facilities.

Texas Natural Resources Code, Title 3, Subtitle D, Chapter 111, and specifically, §111.083, §111.086, §111.087, and §111.090; and Texas Utilities Code, Title 3, Subtitles A and B, and specifically, §102.003, §104.003, §104.004, §104.007, §121.104, and §121.151, are affected by the proposed new section.

Statutory authority: Texas Natural Resources Code, §111.083, §111.086, §111.087, and §111.090; and Texas Utilities Code, §102.003, §104.003, §104.004, §104.007, §121.104, and §121.151.

Cross-reference to statutes: Texas Natural Resources Code, §111.083, §111.086, §111.087, and §111.090; and Texas Utilities Code, §102.003, §104.003, §104.004, §104.007, §121.104, and §121.151.

Issued in Austin, Texas, on October 10, 2006.

§2.1. Informal Complaint Procedure.

(a) Scope and jurisdiction. This section applies to any complaint within the Commission's jurisdiction, including but not limited to complaints about natural gas purchasing, selling, shipping, transportation, and gathering practices. This section does not apply to matters arising under Texas Utilities Code, Chapter 103, entitled "Jurisdiction and Powers of Municipality," or initiated under Texas Utilities Code, Chapter 104, Subchapter C, entitled "Rate Changes Proposed by Utility," or Subchapter G, entitled "Interim Cost Recovery and Rate Adjustment."

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Common purchaser--Has the same meaning as is given that term in Texas Natural Resources Code, §111.081.

(2) Complainant--A person who submits a complaint to the Commission pursuant to this section.

(3) Director--The director of the Gas Services Division of the Railroad Commission of Texas or the director's delegate.

(4) Gatherer--A person providing gathering service for a fee for a third party.

(5) Gathering service--A pipeline that collects gas and brings it to a common point.

(6) Informal complaint proceeding--The process set out in this section for addressing disputes among entities within the Commission's jurisdiction, including but not limited to natural gas purchasers, sellers, shippers, transporters, and gatherers.

(7) Mediator--The individual who conducts an informal complaint resolution mediation.

(8) Monitor--The Commission employee appointed by the director to manage an informal complaint proceeding and/or assist a mediator who is not a Commission employee in the management of an informal complaint proceeding. A monitor may also be a mediator.

(9) Natural gas purchaser--A person that purchases natural gas.

(10) Natural gas seller--A person that sells natural gas, including but not limited to a producer.

(11) Natural gas utility--Has the same meaning as is given that term in Texas Utilities Code, §§101.003 and 121.001.

(12) Participant--A complainant, respondent, monitor, or mediator in an informal complaint proceeding.

(13) Person--An individual, corporation, partnership, joint venture, or other legal entity of any kind.

(14) Respondent--A person who is the subject of a complaint submitted to the Commission pursuant to this section.

(15) Shipper--A person for which a transporter is currently providing, has provided, or has pending a written request to provide transportation services.

(16) Similarly-situated shipper--A shipper that seeks or receives transportation service under the same or substantially the same,

physical, regulatory, and economic conditions of service as any other shipper of a transporter. In determining whether conditions of service are the same or substantially the same, the Commission shall evaluate the significance of relevant conditions, including, but not limited to, the following:

- (A) service requirements;
- (B) location of facilities;
- (C) receipt and delivery points;
- (D) length of haul;
- (E) quality of service (firm, interruptible, etc.);
- (F) quantity;
- (G) swing requirements;
- (H) credit worthiness;
- (I) gas quality;
- (J) pressure (including inlet or line pressure);
- (K) duration of service;
- (L) connect requirements; and
- (M) conditions and circumstances existing at the time of agreement or negotiation.

(17) Transportation service--The receipt of a shipper's natural gas at a point or points on a transporter's facilities and re-delivery of a shipper's natural gas by the transporter at another point or points on the transporter's facilities or on another person's facilities, including exchange, backhaul, displacement, and other methods of transportation.

(18) Transporter--A person providing transportation service for a fee for a third party.

(c) Policy.

(1) It is the policy of the Commission to encourage the resolution and expedient settlement of disputes regarding natural gas purchasers, sellers, transporters, and gatherers and to prevent discrimination among similarly situated shippers and sellers as is prohibited by the Texas Natural Resources Code, Chapter 111, entitled "Common Carriers, Public Utilities, and Common Purchasers," and Texas Utilities Code, Title 3, Subtitle A, entitled "Gas Utility Regulatory Act," and Subtitle B, entitled "Regulation of Transportation and Use," and other matters of dispute subject to the Commission's jurisdiction. This section is adopted in furtherance of that policy.

(2) To accomplish the policy set out in this section, Commission employees, acting pursuant to this section, will attempt to facilitate, encourage, and promote resolution and settlement of disputes among natural gas purchasers, sellers, shippers, transporters, gatherers, and other persons subject to the Commission's jurisdiction consistent with the public interest and without lengthy and potentially expensive formal proceedings. The informal complaint procedure is intended to establish a forum for communication, with the goal of achieving mutually acceptable compromise and resolution that is in the public interest.

(d) General requirements and limitations.

(1) The Commission will not process anonymous complaints under this section.

(2) The communications, records, conduct, and demeanor of the participants in each informal complaint proceeding are confidential and handled in accordance with Texas Government Code,

§2009.054, entitled "Confidentiality of Certain Records and Communications."

(3) A mediator shall have completed 40 hours of Texas mediation training that meets the standards of the Texas Alternative Dispute Resolution Procedures Act, as set out in Texas Government Code, §154.052, and must follow the ethical guidelines for mediators adopted by the Alternative Dispute Resolution Section of the State Bar of Texas.

(4) A mediator may be either a Commission employee or a non-Commission employee. If the complainant and respondent submit a written request to the director agreeing to share all costs of mediation, they may retain a non-Commission employee to conduct the mediation. If the complainant and respondent are unable to agree on whether to engage a non-Commission employee as the mediator, or in the absence of a request for a non-Commission employee mediator, the director shall appoint a Commission employee to conduct the mediation. If the mediator is not a Commission employee, then the director shall appoint a Commission employee as a monitor. The monitor will act as a technical advisor to the non-Commission employee mediator and may, at the direction of the non-Commission employee mediator, participate in the informal complaint proceeding. A non-Commission employee mediator shall have the same duties and obligations of a Commission employee mediator and may, in his or her sole discretion, compel the complainant and respondent to provide information pursuant to subsection (e)(10) of this section.

(5) Mediators and monitors shall not communicate with a Commission hearings examiner or a Commissioner about any material or substantive aspect of a complaint or reply filed pursuant to this section.

(6) Each complainant and respondent in an informal complaint proceeding shall cooperate fully in gathering and disclosing information requested by the mediator or monitor and shall participate in good faith in all aspects of the informal complaint proceeding.

(7) A natural gas purchaser, transporter, or gatherer shall not discontinue or deny service to a shipper or seller during the pendency of an informal complaint proceeding in which both are participants unless one of the following reasons applies for discontinuing service:

(A) There is insufficient capacity on the respective facility or facilities, provided, however, that the purchaser, transporter, or gatherer provide any partial capacity that maybe available from time to time.

(B) The natural gas does not meet the quality specifications of the purchaser, transporter, gatherer, or downstream processors, pipelines, or customers. However, if the natural gas is flowing under an agreement and, at the impending termination of that agreement, there is sufficient capacity, and non-specification gas is being blended for other shippers or sellers in the area, and the acceptance of such volumes from the shipper or seller will not jeopardize downstream market deliverability of the gas, then the purchaser, transporter, or gatherer shall continue to take the gas until the conclusion of the informal complaint process, charging blending fees applicable to similarly situated shippers.

(C) Continuing to take the natural gas would:

- (i) create a safety or environmental risk;
- (ii) cause a violation of a safety or environmental regulation or permit; or
- (iii) interfere with necessary maintenance and repairs of facilities.

(D) There is no existing contractual agreement as to the price to be paid or fees charged for the production during the pendency of the informal complaint process, provided, however, that the production will be taken if the complainant and respondent agree that the price or fees will be determined at a later date.

(E) There is such good cause as the mediator may determine in the particular case.

(8) A transporter, gatherer, or purchaser shall not discriminate against a shipper or seller because the shipper or seller has, in good faith:

(A) filed an informal complaint at the Commission;

(B) filed a formal complaint at the Commission;

(C) instituted or caused to be instituted at the Commission any enforcement proceeding against a purchaser, transporter, or gatherer based on alleged violations of any rule or statute; or

(D) made inquiry to the Commission as to the facts or circumstances surrounding operation of a purchaser's, transporter's, or gatherer's system.

(9) The Commission may commence an enforcement action, initiated by the director, for failure by the complainant or the respondent to comply with all provisions of the informal complaint proceeding.

(e) Informal complaint process.

(1) An informal complaint proceeding is initiated by filing a complaint with the Commission by:

(A) calling the Commission Helpline at (512) 463-7167. Commission staff will answer calls to the Helpline from 8:00 a.m. to 5:00 p.m. on regular Commission business days. A voice mail system will be in place to receive calls during non-business hours; or

(B) submitting a complaint in writing by:

(i) regular United States mail to the following address: Director, Gas Services Division, P. O. Box 12967, Austin, Texas 78711-2967;

(ii) facsimile transmission (fax) to the following number: (512) 463-7962; or

(iii) internet submission by accessing the following URL: <http://www.rrc.state.tx.us/divisions/gas/mos/complaints/icp.html>.

(2) Each complaint shall include the following information:

(A) the name of the individual submitting the complaint;

(B) the complainant's name, mailing address, telephone number, and, if applicable, e-mail address and fax number;

(C) the respondent's name, mailing address, telephone number, and if applicable, e-mail address and fax number;

(D) a factual description of the events that are the basis of the complaint, including the onset or duration of such events;

(E) a statement of the current status of negotiations between the complainant and the respondent and a description of any actions the complainant has taken to resolve the dispute;

(F) a statement of the relief sought by complainant; and

(G) all supporting documentation, unless the complaint is made by telephone, in which case the documentation shall be supplied at a later time.

(3) The director shall assign a complaint to a monitor who shall promptly contact the complainant to confirm receipt of the complaint and to obtain any additional relevant and supporting documentation pertaining to the complaint. The monitor shall advise the complainant of its right to have the complaint mediated by a Commission employee or by a non-Commission employee mediator. If the complainant has submitted the complaint by telephone and wishes to pursue the matter, the monitor shall direct the complainant to submit the complaint by e-mail, facsimile, or letter, along with supporting documentation.

(4) After the monitor determines that the complainant has provided all required information, the monitor shall notify the respondent of the complaint by mailing to the respondent, via certified mail, return receipt requested, a copy of the complaint and all supporting documentation. This notification shall include notice to the respondent of its right to have the matter heard by a non-Commission employee mediator pursuant to the agreement of the complainant and the respondent.

(5) The respondent shall reply in writing to both the monitor and the complainant within 14 calendar days from the date of the monitor's notification letter. The respondent's reply shall address the substance of the complaint and either propose a solution or explain why the complaint is incorrect.

(6) The complainant and the respondent will be given 14 calendar days from the date of the respondent's reply to resolve the complaint without the participation of a mediator.

(7) If the complainant and the respondent have made a good faith attempt to resolve the complaint but have been unable to do so, the monitor shall determine within seven days after expiration of the period allowed for informal resolution in paragraph (6) of this subsection whether either the complainant or the respondent or both want the matter referred to a Commission or non-Commission mediator and shall refer the matter back to the director.

(8) In the event the complainant and respondent agree upon a non-Commission employee mediator, then the monitor shall notify the agreed upon mediator. In the event the complainant and respondent desire to use a non-Commission employee mediator and are unable to agree upon the selection of a non-Commission employee mediator, each party shall each submit the name of its preferred mediator and the preferred mediators so designated shall choose a third mediator who will preside over the process.

(9) In accordance with the procedure set forth in subsection (d)(4) of this section, the director shall appoint a mediator within seven days after receipt of the information in paragraph (7) of this subsection.

(10) The mediator shall, within 14 calendar days after the appointment provided in paragraph (8) of this subsection, review all information received from the complainant and respondent. The mediator may request additional information as the mediator deems necessary. At any time during an informal complaint procedure, the mediator may request and review documents or information the mediator considers pertinent to the complaint. The mediator shall furnish the complainant and respondent with a written summary of all relevant documents and information reviewed. The mediator's summary shall not disclose confidential information.

(11) The monitor shall schedule a mediation meeting with the complainant and respondent, which the mediator shall conduct, to occur within 14 calendar days after the date of the mediator's written

summary. The monitor shall promptly notify the complainant and respondent of the date, time and location of the meeting, which may be conducted at the headquarters of the Commission in Austin, Texas; in the Commission's offices in the district in which the complaint arises; or at any other location by agreement of the participants.

(12) The complainant and respondent shall participate in the mediation meeting and undertake in good faith to settle all issues raised in the complaint. The complainant and respondent shall make available during the mediation meeting, in person, representatives who are empowered to make decisions on their behalf.

(13) If the mediation process does not result in a settlement of all issues during the period for mediation provided, after completing the mediation, the mediator shall send a confidential memorandum to the complainant and the respondent that states one or more of the following conclusions, based on the information reviewed by the mediator. The mediator may conclude that:

(A) the complaint does not involve a violation of a Commission rule or statute;

(B) there are specific actions which, if taken by either the respondent or the complainant or both, could result in resolution of the complaint; or

(C) a formal evidentiary hearing is warranted. Such a hearing may be:

(i) initiated by the director as a show cause proceeding; or

(ii) requested by either the complainant or the respondent.

(f) Internal report. The director shall maintain an internal report of all complaints received.

(1) The report shall be circulated no less often than once every six months to the Commissioners, the executive director, and the general counsel.

(2) The specific points of the participants' discussions and any negotiated resolution shall not be included in this internal report.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 10, 2006.

TRD-200605541

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 475-1295



TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 183. ACUPUNCTURE

22 TAC §§183.2, 183.4, 183.5, 183.15, 183.20

The Texas Medical Board proposes amendments to §§183.2, 183.4, 183.5, 183.15 and 183.20, concerning Acupuncture.

The amendment to §183.2 allows licensing of an applicant who graduated from a acupuncture school that became accredited after the date of graduation if the school certifies that the curriculum at the time of the applicant's graduation was equivalent to the curriculum upon which accreditation granted and that the school offered a masters degree or a professional certificate or diploma.

The amendment to §183.4 adds a provision allowing proficiency in English to be demonstrated by graduation from an acceptable approved school of acupuncture located in the United States or Canada.

The amendment to §183.5 provides a procedure for cancellation of a license after it has expired for one year.

The amendment to §183.15 eliminates the requirement to include in an acupuncturist's title.

The amendment to §183.20 deletes the inappropriate reference to "informal" continuing acupuncture education (CAE) and establishes a three-year time limit on the approval of CAE courses.

Michele Shackelford, General Counsel, Texas Medical Board, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications to state or local government as a result of enforcing the sections as proposed. There will be no effect to individuals required to comply with the sections as proposed.

Ms. Shackelford also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to allow applicants who graduate from accredited acupuncture schools to become licensed, to add a method for demonstrating proficiency in English for graduates of acceptable approved schools of acupuncture located in the United States or Canada, to provide efficiency by providing a simplified procedure for cancellation of expired licenses and to clarify the rules by eliminating an inappropriate reference to "informal" CAE and assures that CAE courses will be re-evaluated by the Board at least every three years. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Sally Durocher, P.O. Box 2018, Austin, Texas 78768-2018. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001 and §205.101(b), which provides the Texas Medical Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

No other statutes, articles or codes are affected by this proposal.

§183.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the content clearly indicates otherwise.

(1) (No change.)

(2) Acceptable approved acupuncture school--Effective January 1, 1996, and in addition to and consistent with the requirements of §205.206 of the Tex. Occ. Code:

(A) a school of acupuncture located in the United States or Canada which, at the time of the applicant's graduation, was a candidate for accreditation by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), provides certification that the curriculum at the time of the applicant's graduation was equivalent to

the curriculum upon which accreditation granted, offered a masters degree or a professional certificate or diploma [no more than a certificate] upon graduation, and had a curriculum of 1,800 hours with at least 450 hours of herbal studies which at a minimum included the following:

(i) basic herbology including recognition, nomenclature, functions, temperature, taste, contraindications, and therapeutic combinations of herbs;

(ii) herbal formulas including traditional herbal formulas and their modifications or variations based on traditional methods of herbal therapy;

(iii) patent herbs including the names of the more common patent herbal medications and their uses; and

(iv) clinical training emphasizing herbal uses; or

(B) a school of acupuncture located in the United States or Canada which, at the time of the applicant's graduation, was accredited by ACAOM, offered a masters degree, or a professional certificate or diploma upon graduation, and had a curriculum of 1,800 hours with at least 450 hours of herbal studies which at a minimum included the following:

(i) basic herbology including recognition, nomenclature, functions, temperature, taste, contraindications, and therapeutic combinations of herbs;

(ii) herbal formulas including traditional herbal formulas and their modifications or variations based on traditional methods of herbal therapy;

(iii) patent herbs including the names of the more common patent herbal medications and their uses; and

(iv) clinical training emphasizing herbal uses; or

(C) a school of acupuncture located outside the United States or Canada that is determined by the board to be substantially equivalent to a Texas acupuncture school or a school defined in subparagraph (B) of this paragraph through an evaluation by the American Association of Collegiate Registrars and Admissions Officers (AACRAO).

(3) - (34) (No change.)

§183.4. Licensure.

(a) Qualifications. An applicant must present satisfactory proof to the acupuncture board that the applicant:

(1) is at least 21 years of age;

(2) is of good professional character as defined in §183.2 of this title (relating to Definitions);

(3) has successfully completed 60 semester hours of general academic college level courses, other than in acupuncture school, that are not remedial and would be acceptable at the time they were completed for credit on an academic degree at a two or four year institution of higher education within the United States accredited by an agency recognized by the Higher Education Coordinating Board or its equivalent in other states as a regional accrediting body. Coursework completed as a part of a degree program in acupuncture or Oriental medicine may be accepted by the acupuncture board if, in the opinion of the acupuncture board, such coursework is substantially equivalent to the required hours of general academic college level coursework;

(4) is a graduate of an acceptable approved acupuncture school or received and completed training which, in the opinion of the acupuncture board, was substantially equivalent to training provided by such a school;

(5) has taken and passed, within three attempts, each component of the full National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination. If an applicant submits to multiple attempts on a component before and on or after June 1, 2004, the number of attempts shall be combined based on the subject matter tested;

(6) has taken and passed the CCAOM (Council of Colleges of Acupuncture and Oriental Medicine) Clean Needle Technique (CNT) course and practical examination;

(7) for applicants who apply for a license on or after September 1, 2007, passes a jurisprudence examination ("JP exam"), which shall be conducted on the licensing requirements and other laws, rules, or regulations applicable to the acupuncture profession in this state. The jurisprudence examination shall be developed and administered as follows:

(A) Question for the JP Exam shall be prepared by agency staff with input from the Acupuncture board and the agency staff shall make arrangements for a facility by which applicants can take the examination.

(B) Applicants must pass the JP exam with a score of 75 or better within three attempts.

(C) An examinee shall not be permitted to bring medical books, compends, notes, medical journals, calculators or other help into the examination room, nor be allowed to communicate by word or sign with another examinee while the examination is in progress without permission of the presiding examiner, nor be allowed to leave the examination room except when so permitted by the presiding examiner.

(D) Irregularities during an examination such as giving or obtaining unauthorized information or aid as evidenced by observation or subsequent statistical analysis of answer sheets, shall be sufficient cause to terminate an applicant's participation in an examination, invalidate the applicant's examination results, or take other appropriate action.

(E) An applicant who is unable to pass the JP exam within three attempts must appear before a committee of the board to address the applicant's inability to pass the examination and to re-evaluate the applicant's eligibility for licensure. It is at the discretion of the committee to allow an applicant additional attempts to take the JP exam; and

(8) is able to communicate in English as demonstrated by one of the following:

(A) passage of the NCCAOM examination taken in English;

(B) passage of the TOEFL (Test of English as a Foreign Language) with a score of 550 or higher on the paper based test or with a score of 213 or higher on the computer based test;

(C) passage of the TSE (Test of Spoken English) with a score of 45 or higher;

(D) passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher; [or]

(E) graduation from an acceptable approved school of acupuncture located in the United States or Canada; or

(F) [(E)] at the discretion of the acupuncture board, passage of any other similar, validated exam testing English competency given by a testing service with results reported directly to the

acupuncture board or with results otherwise subject to verification by direct contact between the testing service and the acupuncture board.

(b) - (g) (No change.)

§183.5. Annual Renewal of License.

(a) Acupuncturists licensed under the Act shall register annually and pay a fee. An acupuncturist may renew an unexpired license by submitting the required form and by paying the required renewal fee to the acupuncture board on or before the expiration date ~~[November 30 of]~~ each year. The fee shall accompany a written application which legibly sets forth the licensee's name, mailing address, the place or places where the licensee is engaged in the practice of acupuncture, and other necessary information prescribed by the acupuncture board.

(b) Falsification of an affidavit or submission of false information to obtain renewal of a license shall subject an acupuncturist to denial of a license renewal or to discipline pursuant to §205.351 of the Act.

(c) If the renewal fee and completed application form are not received on or before the expiration date ~~[November 30 of each year]~~, penalty fees will be imposed as outlined in §175.3(3) of this title (relating to Penalties) ~~[\$175.2 of board rules (relating to Fees, Penalties, and Applications)]~~.

(d) If a acupuncturist's permit has been expired for 90 days or less, the acupuncturist may obtain a new permit by submitting to the board a completed permit application, the registration fee, as defined in §175.2(3) of this title (relating to Registration and Renewal Fees) and the penalty fee, as defined in §175.3(3)(A) of this title.

(e) If a acupuncturist's permit has been expired for more than 90 days but less than one year, the acupuncturist may obtain a new permit by submitting to the board a completed permit application, the registration fee, as defined in §175.2(3) of this title and the penalty fee, as defined in §175.3(3)(B) of this title.

(f) If a acupuncturist's registration permit has been expired for one year or longer, the acupuncturist's license is automatically canceled, unless an investigation is pending, and the acupuncturist may not register for a new permit.

(g) Practicing acupuncture after a acupuncturist's permit has expired under subsection (c) of this section without obtaining a new registration permit for the current registration period has the same effect as, and is subject to all penalties of, practicing acupuncture without a license.

§183.15. Use of Professional Titles.

(a) A licensee shall use the title "[Texas] Licensed Acupuncturist," "[Tx.] Lic. Ac.," or "[Tx.] L. Ac.," immediately following his/her name on any advertising or other materials visible to the public which pertain to the licensee's practice of acupuncture. Only persons licensed as an acupuncturist may use these titles. A licensee who is also licensed in Texas as a physician, dentist, chiropractor, optometrist, podiatrist, and/or veterinarian is exempt from the requirement that the licensee's acupuncture title immediately follow his/her name.

(b) If a licensee uses any additional title or designation, it shall be the responsibility of the licensee to comply with the provisions of the Healing Art Identification Act, Tex. Occ. Code Ann., Chapter 104.

§183.20. Continuing Acupuncture Education.

(a) - (f) (No change.)

(g) Verification of Credits. The board may require written verification of ~~[both formal and informal]~~ continuing acupuncture education hours from any licensee and the licensee shall provide the requested verification within 30 calendar days of the date of the request.

Failure to timely provide the requested verification may result in disciplinary action by the board.

(h) - (u) (No change.)

(v) Expiration, Denial and Withdrawal of Approval.

(1) Approval of any CAE course shall expire three years after the date of approval.

(2) ~~[(4)]~~ The board may withdraw its approval of a provider or deny an application for approval if the provider is convicted of a crime substantially related to the activities of a provider.

(3) ~~[(2)]~~ Any material misrepresentation of fact by a provider or applicant in any information required to be submitted to the board is grounds for withdrawal of approval or denial of an application.

(4) ~~[(3)]~~ The board may withdraw its approval of a provider after giving the provider written notice setting forth its reasons for withdrawal and after giving the provider a reasonable opportunity to be heard by the board or its designee.

(5) ~~[(4)]~~ Should the board deny approval of a provider, the provider may appeal the action by filing a letter stating the reason(s) with the board. The letter of appeal shall be filed with the board within ten days of the mailing of the applicant's notification of the board's denial. The appeal shall be considered by the board.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Donald W. Patrick, MD, JD

Executive Director

Texas Medical Board

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For further information, please call: (512) 305-7016



CHAPTER 187. PROCEDURAL RULES

SUBCHAPTER C. FORMAL BOARD PROCEEDINGS AT SOAH

22 TAC §187.28

The Texas Medical Board proposes an amendment to §187.28, concerning Discovery.

The amendment sets forth a procedure for the identification of expert witnesses who may testify in cases before the State Office of Administrative Hearings.

Michele Shackelford, General Counsel, Texas Medical Board, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications to state or local government as a result of enforcing the section as proposed. There will be no effect to individuals required to comply with the section as proposed.

Ms. Shackelford also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be to assure fairness to all parties in contested case hearings before the

State Office of Administrative Hearings by establishing a procedure for the identification of expert witnesses. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Sally Durocher, P.O. Box 2018, Austin, Texas 78768-2018. A public hearing will be held at a later date.

The amendment is proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides the Texas Medical Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

No other statutes, articles or codes are affected by this proposal.

§187.28. Discovery.

(a) Parties to SOAH proceedings shall have reasonable opportunity and methods of discovery as described in the APA, §164.005 of the Act, and SOAH rules.

(b) Testifying expert witnesses. Unless otherwise agreed in writing by the parties or ordered by the ALJ, the Board shall file a designation of testifying expert witnesses, if any, no later than 90 days before the end of the discovery period. Other parties shall file a designation of testifying expert witnesses, if any, no later than 45 days after the Board's designation or 60 days before the end of the discovery period, whichever date is earlier. A party shall not be allowed to present a testifying expert witness who has not been timely designated, except by a pre-hearing order of the ALJ.

(1) A designation of testifying expert witnesses shall include:

(A) the name, address, and telephone number of each expert witness and, unless the party shows that the testifying expert witness is not retained by, employed by, testifying as a courtesy, or otherwise in the control of the party:

(B) a current curriculum vitae, résumé, and bibliography of each expert witness; and

(C) an expert report, prepared in writing by each expert witness, that provides a fair summary of the expert's opinions as of the date of the report. If the expert witness is to testify regarding the medical standard of care, the expert report shall state the standard of care, the manner in which the care rendered by the physician met or failed to meet the standards, and whether there is any causal relationship between the care rendered and any injury or harm alleged. The expert report must be supplemented in accordance with SOAH Rule, 1 TAC §155.31(h) (relating to Discovery).

(2) Unless a party shows that a testifying expert witness is not retained by, employed by, testifying as a courtesy, or otherwise in the control of the party, the party shall make the testifying expert witness available for deposition reasonably promptly after the expert witness is designated.

(c) [(b)] Remedies and Sanctions. Upon the failure to comply with a discovery request to the extent required by the APA, §164.005 of the Act, SOAH rules or SOAH Order, or as agreed to between the parties in a discovery agreement, the presiding ALJ should, after notice and hearing, make such orders in regard to the failure as are just, and such orders may include one or more of the following:

- (1) an order granting a continuance;
- (2) an order limiting or restricting the admissibility and use of evidence, to include exclusion of evidence or testimony;

(3) an order for payment by a party of the actual travel, lodging, discovery expenses; hearing and court reporter costs; but not attorney fees, incurred by an opposing party as a result of the failure to comply with the discovery requirements;

(4) an order imposing a scheduling order providing for discovery deadlines necessary to remedy the failure to comply discovery requirements;

(5) an order for remedies and sanctions agreed to by the parties in writing or on the record;

(6) an order disallowing further discovery of any kind or of a particular kind by the offending party;

(7) an order holding that designated facts be considered admitted for purposes of the proceeding;

(8) an order refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters into evidence;

(9) an order disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; or

(10) an order striking pleadings or testimony, or both, in whole or in part.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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**PART 37. TEXAS BOARD OF
ORTHOTICS AND PROSTHETICS**

**CHAPTER 821. ORTHOTICS AND
PROSTHETICS**

22 TAC §§821.2, 821.5, 821.33, 821.35

The Texas Board of Orthotics and Prosthetics (board) proposes amendments to §§821.2, 821.5, 821.33, and 821.35, concerning the licensure and regulation of orthotics and prosthetics.

BACKGROUND AND PURPOSE

Proposed amendments are necessary to implement provisions of House Bill 2680, 79th Legislature, Regular Session (2005), codified in Occupations Code, Chapter 112, which requires the board to provide reduced fees and continuing education requirements for retired health professionals, including licensed orthotists and prosthetists, who are engaged in the provision of voluntary charity care. In addition, the proposed rules increase the amount of allowable self-study continuing education credits to 50 percent.

SECTION-BY-SECTION SUMMARY

Amendments to §§821.2, 821.5, 821.33, and 821.35 implement House Bill 2680, 79th Legislature, Regular Session (2005), codified in Occupations Code, Chapter 112. Section 821.2 defines "voluntary charity care" as practice of orthotics and prosthetics without compensation. Section 821.5 sets the amount of the fees for a retired licensee providing voluntary charity care at \$150 for a prosthetist or orthotist and at \$200 for a prosthetist/orthotist. Section 821.33 defines "retired prosthetist and/or orthotist performing voluntary charity care" as a person at least 55 years of age who is not performing orthotics or prosthetics for compensation and who has informed the department of the intent to retire and to provide only voluntary care. The same section also provides the process for renewal and continuing education for such retirees and a procedure for returning to compensated work.

Additional amendments to §821.35 increase the amount of allowable self-study continuing education credits from 25 percent to 50 percent. The amount of required live instructor-directed continuing education hours was reduced from 75 percent to 50 percent. Retired licensees performing voluntary charity care are exempted from the 50 percent requirement.

FISCAL NOTE

Heather Muehr, Executive Director, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to the state as a result of enforcing or administering the sections as proposed. Implementation of the proposed sections will not result in any fiscal implications for local governments.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Muehr has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-business will not be required to alter their business practices in order to comply with the sections. There are no anticipated economic costs to persons who are required to comply with the sections as proposed, other than those licensees who elect to provide voluntary charity care. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Ms. Muehr has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is to continue to ensure public health and safety through the licensing and regulation of orthotics and prosthetics. It is anticipated that voluntary charity care will increase due to the new provisions for retirees. The change in continuing education requirements will allow greater access to electronic media and make it easier for licensees in remote areas to complete continuing education.

REGULATORY ANALYSIS

The board has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment of reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specially intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The board has determined that the proposed rules do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Heather Muehr, Executive Director, Texas Board of Orthotics and Prosthetics, 1100 West 49th Street, Austin, Texas 78756, or by e-mail to heather.muehr@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY

The amendments are proposed under Occupations Code, Chapter 605, which provides the Texas Board of Orthotics and Prosthetics with the authority to adopt rules concerning the regulation of orthotists and prosthetists.

The amendments affect Occupations Code, Chapter 605.

§821.2. Definitions.

The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly suggests otherwise. Words and terms defined in the Orthotics and Prosthetics Act shall have the same meaning in these rules:

(1) - (42) (No change.)

(43) Voluntary charity care--The practice of a licensed orthotist and/or prosthetist without compensation or expectation of compensation.

§821.5. Fees.

(a) - (c) (No change.)

(d) Schedule of fees. The board has established the schedule of fees as follows:

(1) - (21) (No change.)

(22) changing the name of the on-site practitioner in charge of an accredited facility--\$100; [and]

(23) changing the name of the safety manager of an accredited facility--\$100; [-]

(24) retired voluntary charity care prosthetist or orthotist license renewal--\$150; and

(25) retired voluntary charity care prosthetist/orthotist license renewal--\$200.

(e) - (f) (No change.)

§821.33. License Renewal.

(a) - (c) (No change.)

(d) Renewal for a retired orthotist and/or prosthetist performing voluntary charity care.

(1) A "retired orthotist and/or prosthetist is defined as a person who is:

(A) at least 55 years old;

(B) is not employed for compensation in the practice of orthotics and/or prosthetics; and

(C) has notified the board in writing of their intention to retire and provide only voluntary charity care.

(2) A retired orthotist and/or prosthetist who is only providing voluntary charity care may renew their license by submitting a renewal form; the fee required by §821.5 of this title (relating to Fees); and the continuing education hours required by §821.35 of this title.

(3) A retired orthotist and/or prosthetist may not change their retired status until their next renewal period. If a retiree wishes to change their status upon renewal, they must notify the board in writing; submit a renewal form; the fee for a prosthetist and/or orthotist license renewal required by §821.5 of this title; and the continuing education hours required by §821.35 of this title.

(e) [(d)] Late renewal requirements.

(1) The executive director shall inform a person or facility that has not renewed a license after a period of more than 30 days after the expiration of the license of the amount of the fee required for late renewal and the date the license expired.

(2) A person or facility whose license has expired may renew the license before the first anniversary date of the license expiration by submitting the license renewal form, the person's proof of completion of continuing education as set out in §821.35 of this title, a statement describing how the person or facility complied with the Orthotics and Prosthetics Act after the license expired, and the appropriate late renewal fee to the executive director. The renewal is effective if mailed to the executive director on or before the first anniversary of the license expiration date. The postmark date shall be considered as the date of mailing.

(A) If paid less than 91 days after the expiration date, the fee due is equal to one and one-half times the renewal fee as set out in §821.5 of this title ~~[(relating to Fees)]~~.

(B) If paid 91 days or more after the expiration date but before the first anniversary of the expiration date, the fee due is equal to two times the renewal fee as set out in §821.5 of this title.

(C) After the license is renewed the next continuing education reporting period starts on the date the certificate is renewed and continues until the next expiration date.

(3) A person or facility whose license has been expired more than one year may not renew the license. The person or facility may obtain a new license by complying with the current requirements and procedures for obtaining an original license.

(4) After a license is expired and until a person has renewed the certificate, a person may not practice orthotics or prosthetics in violation of the Act.

(5) After an accreditation is expired and until the facility has renewed the accreditation, the facility may not provide orthotic or prosthetic patient care in violation of the Act.

(f) [(e)] Expiration of license.

(1) A person whose license has expired may not use the title or represent or imply that he or she has the title of "licensed orthotist," "licensed prosthetist," "licensed prosthetist/orthotist," "licensed orthotist assistant," "licensed prosthetist assistant," "licensed prosthetist/orthotist assistant," or use the letters "LO," "LP," "LPO," "LOA," "LPA," or "LPOA," and may not use facsimiles of those titles.

(2) A person who fails to renew a license after one year is required to surrender the license certificate and identification card to the board.

(3) A facility that fails to renew its accreditation shall not represent or imply that the facility is accredited by the board.

(4) A facility that fails to renew its accreditation after one year is required to surrender the accreditation certificate to the board.

(g) [(f)] Active duty. If a licensee fails to timely renew his or her license because the licensee is or was on active duty with the armed forces of the United States of America serving outside the State of Texas on the license expiration date, the licensee may renew the license in accordance with this subsection.

(1) The licensee, the licensee's spouse, or an individual having power of attorney from the licensee may request renewal of the license. The renewal form shall include a current address and telephone number for the individual requesting the renewal.

(2) Renewal may be requested before or after expiration of the license.

(3) A copy of the official orders or other official military documentation showing that the licensee was on active duty serving outside the State of Texas on the license expiration date shall be filed with the board along with the renewal form.

(4) A copy of the power of attorney from the licensee shall be filed with the board along with the renewal form if the individual having the power of attorney executes documents required in this subsection.

(5) A licensee renewing under this subsection shall pay the applicable renewal fee, but not the reinstatement fee or a penalty fee.

(6) A licensee renewing under this subsection shall be required to submit the same amount of continuing education hours as required for regular renewal unless the licensee shows to the satisfaction of the board that a hardship existed which prevented the licensee from obtaining the continuing education hours. Hardships may include medical reasons, combat duty, or assignment to a location where continuing education activities were not available.

(h) [(g)] Defaulters on Texas guaranteed student loans. The board will not renew the license until a repayment agreement has been reached with the Texas Guaranteed Student Loan Corporation (TGS LC) and a copy of the certification of the repayment agreement from TGS LC is filed with the board office.

§821.35. Continuing Education.

(a) - (f) (No change.)

(g) Acceptable activities. Of the total hours required, at least 50% ~~[75%]~~ must be live, instructor-directed activities. Fifty ~~[Twenty-five]~~ percent or less may be self-directed study.

(h) (No change.)

(i) Acceptable types of continuing education.

(1) (No change.)

(2) Continuing education undertaken by a licensee shall be acceptable if the licensee attends and participates in an activity which falls in one or more of the following categories:

(A) - (C) (No change.)

(D) self-study modules, with or without audio cassettes, and video cassettes of presentations, provided:

(i) (No change.)

(ii) provided the number of hours completed do not exceed 50% ~~[25%]~~ of the credits required;

(E) - (G) (No change.)

(j) - (l) (No change.)

(m) Qualifying exemptions from the continuing education requirements.

(1) - (2) (No change.)

(3) Licensed orthotists and/or prosthetists who are renewing under retired voluntary charity care status shall be exempt from 50% of the continuing education requirements described in subsection (f) of this section.

(4) [(3)] Failure to submit documentation satisfactory to the board as required by paragraph (1) of this section shall be considered the same as failing to meet the continuing education requirements of this section.

(n) (No change.)

(o) Unacceptable activities. Activities unacceptable as continuing education for which the board may not grant continuing education credit are:

(1) - (7) (No change.)

(8) self-directed study activities that exceed the 50% [25%] limit as set out in subsection (g) of this section; and

(9) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 16, 2006.

TRD-200605609

Wanda Furgason

Presiding Officer

Texas Board of Orthotics and Prosthetics

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 458-7111 x6972



TITLE 25. HEALTH SERVICES

PART 7. TEXAS MEDICAL DISCLOSURE PANEL

CHAPTER 601. INFORMED CONSENT

25 TAC §§601.2, 601.3, 601.6

The Texas Medical Disclosure Panel (panel) proposes amendments to §§601.2, 601.3 and 601.6, concerning informed consent.

BACKGROUND AND PURPOSE

These amendments are proposed in accordance with the Texas Civil Practice and Remedies Code, §74.102, which requires the panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure. The sections cover procedures requiring full disclosure of specific risks and hazards--List A, procedures requiring no disclosure of specific risks and hazards--List B, disclosure and consent form for medical and surgi-

cal procedures, disclosure and consent form for radiation therapy, and disclosure and consent form for hysterectomy.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §601.2 adds procedures and risks and hazards for anesthesia, the digestive system treatments and procedures, the endocrine system treatments and procedures, and the hematic and lymphatic system. The proposed amendment to §601.3 adds and renames procedures relating to the digestive system. The proposed amendment to §601.6 adds a historical item related to adoption of rules in October 2005.

FISCAL NOTE

Kathy Perkins, Director, Healthcare Quality Section, Regulatory Division, has determined that, for each year of the first five year period that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed in that costs and workload resulting from the rules amendments will be absorbed within the existing budget.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Perkins has also determined that there are no anticipated economic costs to small businesses, micro-businesses, or to persons who are required to comply with the amendments as proposed because regulated facilities already have an obligation to disclose risks and hazards related to medical and surgical procedures. The amendments will not add additional costs. There will be no impact on local employment.

PUBLIC BENEFIT

In addition, Ms. Perkins has also determined that, for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the amended sections will be the assurance that the panel continues to monitor the risks and hazards related to medical care and surgical procedures, which must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and the general form and substance of such disclosure.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specially intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to the Texas Medical Disclosure Panel, Attention: Jane Guerrero, Manager, Facility Licensing Group, Regulatory Licensing Unit, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6646 or by e-mail to jane.guerrero@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY

The amendments are proposed under the Texas Civil Practice and Remedies Code, §74.102, which provides the Texas Medical Disclosure Panel with the authority to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards and to prepare the form(s) for the treatments and procedures which do require disclosure.

The amendments affect Texas Civil Practice and Remedies Code, §74.102.

§601.2. *Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A.*

(a) Anesthesia.

(1) Epidural.

(A) Persistent back pain.

(B) Bleeding/epidural hematoma.

(C) Infection.

(D) Potential to convert to a general anesthetic if the block fails or the procedure outlasts the block.

(E) Brain damage.

{(A) Risks are enumerated in the form in §601.4 of this title (relating to Disclosure and Consent Form).}

{(B) No other risks are assigned at this time.}

(2) General.

(A) Permanent organ damage.

(B) Memory dysfunction/memory loss.

{(A) Risks are enumerated in the form in §601.4 of this title.}

{(B) No other risks are assigned at this time.}

(3) Spinal.

(A) Nerve damage.

(B) Persistent back pain.

(C) Bleeding/epidural hematoma.

(D) Infection.

(E) Potential to convert to a general anesthetic if the block fails or the procedure outlasts the block.

(F) Brain damage.

{(A) Risks are enumerated in the form in §601.4 of this title.}

{(B) No other risks are assigned at this time.}

(4) Monitored anesthesia care (MAC) (conscious sedation).

(A) Permanent organ damage.

(B) Memory dysfunction/memory loss.

(C) Potential to convert to a general anesthetic if the sedation is not adequate.

(b) (No change.)

(c) Digestive system treatments and procedures.

(1) (No change.)

(2) Bariatric surgery.

(A) Laparoscopic.

(i) Conversion to open procedure.

(ii) Injury to organs.

(iii) Failure of device requiring additional surgical procedure.

(iv) Obstructive symptoms requiring additional surgical procedure.

(v) Development of gallstones (Roux-En-Y).

(vi) Development of metabolic and vitamin disorders (Roux-En-Y).

(vii) Suture line leak with abscess or fistula formation.

(B) Open.

(i) Failure of wound to heal or wound dehiscence (separation of wound).

(ii) Injury to organs.

(iii) Failure of device requiring additional surgical procedure.

(iv) Obstructive symptoms requiring additional surgical procedure.

(v) Development of gallstones (Roux-En-Y).

(vi) Development of metabolic and vitamin disorders (Roux-En-Y).

(3) Pancreatectomy (subtotal or total).

(A) Pancreatitis (subtotal).

(B) Diabetes (total).

(C) Lifelong requirement of enzyme and digestive medication.

(D) Anastomotic leaks.

(4) Total colectomy.

(A) Permanent ileostomy.

(B) Injury to organs.

(C) Infection.

(5) Subtotal colectomy.

(A) Anastomotic leaks.

(B) Temporary colostomy.

(C) Infection.

(D) Second surgery.

(E) Injury to organs.

~~[(2) Other procedures. No other procedures are assigned at this time.]~~

(d) (No change.)

(e) Endocrine system treatments and procedures.

(1) Thyroidectomy.

(A) Acute airway obstruction requiring temporary tracheostomy.

(B) ~~[(A)]~~ Injury to nerves resulting in hoarseness or impairment of speech.

(C) ~~[(B)]~~ Injury to parathyroid glands resulting in low blood calcium levels that require extensive medication to avoid serious degenerative conditions, such as cataracts, brittle bones, muscle weakness, and muscle irritability.

(D) ~~[(C)]~~ Lifelong requirement of thyroid medication.

(2) Parathyroidectomy.

(A) Acute airway obstruction requiring temporary tracheostomy.

(B) Injury to nerves resulting in hoarseness or impairment of speech.

(C) Low blood calcium levels that require extensive medication to avoid serious degenerative conditions, such as cataracts, brittle bones, muscle weakness, and muscle irritability.

(3) Adrenalectomy.

(A) Loss of endocrine functions.

(B) Lifelong requirement for hormone replacement therapy and steroid medication.

(C) Damage to kidneys.

(4) Other procedures.

(5) See also Pancreatectomy under subsection (c)(3) of this section (relating to digestive system treatments and procedures).

~~[(2) Other procedures. No other procedures are assigned at this time.]~~

(f) - (g) (No change.)

(h) Hematic and lymphatic system.

(1) (No change.)

(2) Splenectomy.

(A) Susceptibility to infections and increased severity of infections.

(B) Increased immunization requirements.

~~[(2) Other procedures. No other procedures are assigned at this time.]~~

(i) - (s) (No change.)

§601.3. Procedures Requiring No Disclosure of Specific Risks and Hazards--List B.

(a) - (b) (No change.)

(c) Digestive system.

(1) - (6) (No change.)

(7) Repair of inguinal or ventral hernia.

(8) (No change.)

(9) Colonoscopy.

~~[(9) Resection of colon (segmental).]~~

(10) - (11) (No change.)

(d) - (p) (No change.)

§601.6. History.

(a) - (k) (No change.)

(l) Effective October 16, 2005, §601.2 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A) was amended to include the addition of clarifying and new language concerning the cardiovascular system and nervous system treatments and procedures. Section 601.3 of this title (relating to Procedures Requiring No Disclosure of Specific Risks and Hazards--List B) was amended to remove procedures relating to the nervous system and radiology. Sections 601.4 and 601.5 were amended to include a Spanish language version of the disclosure and consent form for medical and surgical procedures, and the disclosure and consent form for radiation therapy. Section 601.8 was amended to make editorial corrections to the disclosure and consent for hysterectomy form and correct a difference between the English and Spanish language versions of the form.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 13, 2006.

TRD-200605579

Ralph Anderson, M.D.

Chair

Texas Medical Disclosure Panel

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 458-7111 x6972



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 1. GENERAL LAND OFFICE

CHAPTER 3. GENERAL PROVISIONS

SUBCHAPTER C. SERVICES AND PRODUCTS

31 TAC §3.31

The Texas General Land Office (GLO) proposes amendments to §3.31, relating to Fees. The proposed amendments are designed to address the cost recovery of requests for digitized archival material to be distributed via digital format, a requirement under the Texas Public Information Act. No fees to recover this cost presently exist.

Larry L. Laine, Chief Clerk of the GLO, has determined that, during the first five years the proposed amended rule is in effect, there will be no fiscal implications for state or local government. Mr. Laine has also determined that there will be no increase in negative fiscal implications for small businesses and individuals as a result of the proposed amendments.

Mr. Laine has also determined that, during the first five years the proposed amended rule will be in effect, the public will benefit because the amended rule will establish a clear and consistent

schedule of charges for access to and copies of public information and will more fairly compensate the state for the cost of providing such service.

Comments may be submitted to Mr. Walter Talley, *Texas Registrar Liaison*, Texas General Land Office, P.O. Box 12873, Austin, Texas 78711, facsimile number (512) 463-6311 or by e-mail to walter.talley@glo.state.tx.us. In order to be considered, comments must be received no later than thirty (30) days from the date of publication of this notice.

The amendments are proposed under §§31.051, 31.064, 51.174 and 52.324 of the Texas Natural Resources Code which provides the GLO with authorization to promulgate rules and to set and collect certain fees.

Texas Government Code, Chapter 552, and Texas Natural Resources Code, Chapters 31, 32, 33, 51 and 52 are affected by the proposed amendments.

§3.31. Fees.

(a) (No change.)

(b) General Land Office fees. The commissioner is authorized and required to collect the following fees where applicable.

(1) - (3) (No change.)

(4) Maps and sketches: The General Land Office, Surveying Division reserves the right to deny duplication of any map or document in the Surveying Division considered too fragile or brittle to safely copy.

(A) - (D) (No change.)

(E) Digitally reproduced archival map collection on CD-ROM/DVD-ROM.

(i) cost of disk: CD \$11, DVD: \$16;

(ii) cost per image: \$10;

(iii) digitization of un-scanned map or sketch: \$25.

(5) - (16) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 10, 2006.

TRD-200605542

Trace L. Finley

Policy Director

General Land Office

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 475-1859



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION

SUBCHAPTER B. NATURAL GAS

34 TAC §3.23

The Comptroller of Public Accounts proposes new §3.23, concerning credits for qualifying low producing wells. The new section covers the description of the credit and the process for filing an application for approval of the credit. This section is being proposed pursuant to House Bill 2161, 79th Legislature, 2005.

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be by conforming agency rules with current legislation. This rule is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

The new section is proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The new section implements Tax Code, §201.059.

§3.23. Credits for Qualifying Low Producing Wells.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Commission--The Railroad Commission of Texas.

(2) Operator--The person responsible under law or commission rules for the physical operation of a wellbore or lease.

(3) Average Taxable Price of Gas--The previous three month average price of gas using a price index listed in Tax Code, §201.059(b). The average will be computed by taking the closing price of gas each market day and dividing it by the total market days in the three-month period. This average price will then be adjusted to 2005 dollars.

(4) Qualified Low Producing Well--A gas well that produces no more than 90 mcf of gas per day during the three-month period prior to the beginning date of the exemption. For purposes of qualifying the well, the production per day is determined by using the monthly well production report made to the commission.

(b) For each well qualifying under this section, the comptroller will require the following information from the operator of the well.

(1) Copies of the monthly production reports made to the commission for the lease for the three-month period.

(2) If the lease is commingled, the operator must provide copies of the monthly production reports made to the commission for the commingled lease and a production allocation for each lease in the commingling permit with supporting documentation for the three-month period prior to the exemption beginning date.

(3) A completed comptroller exemption application for the well.

(4) The date that the lease met the three-month production limitations that qualify the well as a low-producing well.

(5) A statement as to whether tax has been paid on the gas for periods after the effective date of the exemption and the name of the party that paid the tax.

(c) The monthly average taxable price of gas will be published in the *Texas Register* the month following the actual production month. This publication will notify the taxpayer of the eligibility of the exemption in the month prior to the due date of the report. Tax Code, §201.059(c), (d), and (e) will be used to define the credit applicable for each reporting month.

(1) If the monthly average taxable price of gas is more than \$3.50 per mcf, there will be no exemption for that reporting month.

(2) If the monthly average taxable price of gas is more than \$3.00 per mcf, but not more than \$3.50 per mcf, there will be a 25% credit for gas sold from a qualified well for that reporting month.

(3) If the monthly average taxable price of gas is more than \$2.50 per mcf, but not more than \$3.00 per mcf, there will be a 50% credit for gas sold from a qualified well for that reporting month.

(4) If the monthly average taxable price of gas is not more than \$2.50 per mcf, there will be a 100% credit for gas sold from a qualified well for that reporting month.

(d) If the tax is paid at the full rate provided by Tax Code, Chapter 201, on gas produced on or after the effective date of the tax exemption but before the date the comptroller approves an application for the tax exemption, the operator is entitled to a credit on taxes due under Tax Code, Chapter 201, in an amount equal to the credit approved for that period. To receive a credit, the operator or the party remitting the tax must apply to the comptroller by filing amended reports. If a party other than the operator has remitted the tax, the operator must provide the party that remitted the tax a copy of the approved comptroller application form that qualified the well for the tax exemption.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 13, 2006.

TRD-200605581

Martin Cherry

Chief Deputy General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 475-0387



SUBCHAPTER C. CRUDE OIL PRODUCTION TAX

34 TAC §3.39

The Comptroller of Public Accounts proposes new §3.39, concerning credits for qualifying low producing oil leases. The new section covers the description of the credit and the process for filing an application for approval of the credit. This section is being proposed pursuant to House Bill 2161, 79th Legislature, 2005.

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be providing correct information to taxpayers regarding their responsibilities. This rule is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

The new section is proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The new section implements Tax Code, §202.058.

§3.39. Credits for Qualifying Low Producing Oil Leases.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Commission--The Railroad Commission of Texas.

(2) Operator--The person responsible under law or commission rules for the physical operation of a lease.

(3) Average Taxable Price of Oil--The previous three month average price of oil using a price index listed in Tax Code, §202.058(c). The average will be computed by taking the closing price of each market day and dividing it by the total market days in the three-month period. This average price will then be adjusted to 2005 dollars.

(4) Qualified Low Producing Lease--An oil lease that produces no more than 15 barrels of oil per day of production per well during the three-month period prior to the beginning date of the exemption. For purposes of qualifying the lease, the production per day is determined by using the monthly well production report made to the commission and dividing the sum of the production reported on the lease by the sum number of well days, where a well day is one well producing for one day. The calculation will use the three-month period prior to the beginning date of the exemption. The lease may also qualify if the recoverable oil for a 90-day period prior to qualifying is 5.0% of less per barrel of produced water.

(b) For each lease qualifying under this section, the comptroller will require the following information from the operator of the lease.

(1) A copy of the monthly production report made to the commission for the lease for the three-month period prior to the exemption beginning date.

(2) A list of the producing wells on the lease and supporting documentation to show the number of days each well was producing during the three-month period.

(3) A completed comptroller exemption application for the lease.

(4) The starting date that the lease met the three-month production limitations qualifying the well as a low-producing well.

(5) A statement as to whether tax has been paid on the crude oil for periods after the effective date of the exemption, and the name of the party paying the tax.

(6) If the lease is being qualified under Tax Code, §202.058(a)(2)(B), the operator will need to send documentation

that the well has a recoverable oil rate of 5.0% or less per barrel of produced water for the three-month period. An example of acceptable documentation is a production record showing the amount of water produced and the amount of oil produced for the three-month period. A taxpayer getting approval under this section must also send the \$100 filing fee with the application.

(c) The monthly average taxable price of oil will be published in the *Texas Register* the month following the actual production month. This publication will notify the taxpayer of the availability of the exemption prior to the due date of the report. Tax Code, §202.058(c), (d), and (e) will be used to define the credit applicable for each reporting month.

(1) If the monthly average taxable price of oil is more than \$30 per barrel, there will be no exemption for that reporting month.

(2) If the monthly average taxable price of oil is more than \$25 per barrel, but not more than \$30 per barrel, there will be a 25% credit for oil sold from a qualified lease for that reporting month.

(3) If the monthly average taxable price of oil is more than \$22 per barrel, but not more than \$25 per barrel, there will be a 50% credit for oil sold from a qualified lease for that reporting month.

(4) If the monthly average taxable price of oil is \$22 per barrel or less, there will be a 100% credit for oil sold from a qualified lease for that reporting month.

(d) If the tax is paid at the full rate provided by Tax Code, Chapter 202, on oil produced on or after the effective date of the tax exemption but before the date the comptroller approves an application for the tax exemption, the operator is entitled to a credit on taxes due under Tax Code, Chapter 202, in an amount equal to the credit approved for that period. To receive a credit, the operator or the party remitting the tax must apply to the comptroller by filing amended reports. If a party other than the operator has remitted the tax, the operator must provide the party remitting the tax a copy of the approved comptroller application form that provides that the lease qualifies for the tax exemption.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 13, 2006.

TRD-200605582

Martin Cherry

Chief Deputy General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 475-0387



34 TAC §3.40

The Comptroller of Public Accounts proposes new §3.40, concerning tax credit for enhanced efficiency equipment. The proposal provides a description of the tax credit for enhanced efficiency equipment and the process for filing an application for approval of the credit. This section is being proposed pursuant to House Bill 2161, 79th Legislature, 2005.

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will

be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be in providing correct information to taxpayers regarding their responsibilities. This rule is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

This new rule is proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The proposal implements Tax Code, §202.061.

§3.40. Tax Credit for Enhanced Efficiency Equipment.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Commission--The Railroad Commission of Texas.

(2) Operator--The person responsible under law or commission rules for the physical operation of a lease.

(3) Institute of Higher Education--A comptroller approved institution of higher education located in this state that has an accredited petroleum engineering program.

(4) Marginal Well--A comptroller approved oil well that produces 10 barrels of crude oil or less per day during the month prior to installation of new efficiency equipment.

(b) For each marginal well qualifying under this section, the comptroller will require the following information from the operator of the lease.

(1) A copy of the monthly production report made to the commission for the lease for the qualifying month.

(2) A copy of the evaluation from an institution of higher education certifying the name of the enhanced efficiency equipment and that the equipment produces the required energy reduction.

(3) A list of the producing wells on the lease and supporting documentation to show the number of days each well was producing during the month prior to installation of the new efficiency equipment.

(4) A completed comptroller exemption application for the marginal well.

(5) A statement as to whether tax has been paid on the crude oil for periods after the effective date of the exemption, and the name of the party paying the tax.

(6) A billing statement showing the cost of the equipment, the cost of installation and proof that the equipment was not purchased or installed earlier than September 1, 2005, or later than September 1, 2009.

(c) The credit will be in effect until the accumulated credit equals 10% of the cost of the equipment or \$1,000 per marginal well, whichever occurs first.

(d) If the tax is paid at the full rate provided by Tax Code, Chapter 202, on hydrocarbons produced on or after the effective date of the tax exemption but before the date the comptroller approves an application for the tax exemption, the operator is entitled to a credit on taxes due under Tax Code, Chapter 202, in an amount equal to the tax paid during that period within the statute of limitations. To receive a credit, the operator or the party remitting the tax must apply to the comptroller by filing amended reports. If a party other than the operator has remitted the tax, the operator must provide the party remitting the tax a copy of the approved comptroller application form that qualifies the marginal well for the tax exemption.

(e) The comptroller is limited to approving, each fiscal year, only the number of applications that will not exceed a number equal to one percent of the producing marginal wells in this state on September 1 of that state fiscal year.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 13, 2006.

TRD-200605583

Martin Cherry

Chief Deputy General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 475-0387



PART 6. TEXAS MUNICIPAL RETIREMENT SYSTEM

CHAPTER 123. ACTUARIAL TABLES AND BENEFIT REQUIREMENTS

34 TAC §123.6

The Texas Municipal Retirement System (TMRS) proposes a new rule to 34 TAC Chapter 123, §123.6, concerning Retirement Benefit Calculation. The new rule clarifies the calculation of retirement benefits in certain circumstances for members eligible for the updated service credit. The new rule insures that the benefit calculation is in accordance with applicable law.

Eric W. Davis, Deputy Executive Director, has determined that for the first five-year period the new rule is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering this rule. Small businesses will not be affected.

Eric W. Davis has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing this rule will be clarification of the retirement benefit calculation for members eligible for the updated service credit. For each year of the first five years the new rule will be in effect, there may be an economic cost to members required to comply with the rule as proposed because it may affect the calculation of retirement benefits.

Comments may be submitted to Eric W. Davis, Deputy Executive Director, TMRS, P.O. Box 149153, Austin, Texas 78714-9153, or email Mr. Davis at edavis@tmrs.com. To be considered, comments must be received no later than November 27, 2006.

The new rule is proposed under Texas Government Code, §855.102, which authorizes the board of trustees to adopt rules necessary or desirable for the efficient administration of the system. Texas Government Code §853.402 is affected by this rule.

§123.6. Retirement Benefit Calculation.

Any person retiring after January 1, 2007, whose average updated service compensation would be computed as described in §853.402(g), Government Code, would be based on less than 36 months of contributions and would be more than 120 percent of the person's average updated service compensation if it had been computed as described in §853.402(b), Government Code shall be conclusively deemed to receive a benefit that is unconstitutional and shall not receive a retirement benefit based on that average. The person may elect to instead receive a benefit in which the updated service credit is computed using an average updated service compensation that is no more than 120 percent of the person's average updated service compensation computed as described in §853.402(b), Government Code.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 13, 2006.

TRD-200605580

Eric W. Davis

Deputy Executive Director

Texas Municipal Retirement System

Earliest possible date of adoption: November 26, 2006

For further information, please call: (512) 225-3754



ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text as published in the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 4. AGRICULTURE

PART 3. TEXAS FEED AND FERTILIZER CONTROL SERVICE/OFFICE OF THE TEXAS STATE CHEMIST

CHAPTER 61. COMMERCIAL FEED RULES SUBCHAPTER H. ADULTERANTS

4 TAC §61.61

The Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist adopts amendments to Texas Administrative Code, Title 4, Part 3, Commercial Feed Rules, §61.61 concerning Poisonous or Deleterious Substances in subsection (a)(6) and (7) with changes as proposed in the *Texas Register* (31 TexReg 5433) on July 7, 2006. The changes are made because the proposed rule had errors and a Correction of Error was published in the *Texas Register* (31 TexReg 5838) on July 21, 2006.

Dr. Tim Herrman, State Chemist and Director, Office of the Texas State Chemist (OTSC) has concluded that the amended rule aligns OTSC policy guidelines with those published by the Food and Drug Administration (FDA) action levels and guidance documents, will help clarify blending authority, and will provide guidance to grain handlers, processors, farmers and risk management institutions pertaining to the disposing of grain containing >500 parts per billion (ppb) and oilseed, processed grain, and oilseed meal containing >300 ppb aflatoxin.

The only comments received regarding the proposed amendment to the rule were from the Texas Farm Bureau and they were in support of the changes.

The amendment is adopted under Texas Agriculture Code 141, §141.004 which provides Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist with the authority to promulgate rules relating to the distribution of commercial feeds.

§61.61 *Poisonous or Deleterious Substances.*

(a) Poisonous or deleterious substances include, but are not limited to, the following:

(1) fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry;

(2) fluorine-bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.04% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine; and 0.03% for poultry;

(3) soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichlorethylene or other chlorinated solvents;

(4) sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (thiamine);

(5) artificial color that has not been cleared for safety for use in feeds. Evidence of safety must include a clearance for use of these color additives under the provisions of the Federal Food, Drug, and Cosmetic Act. No artificial color material shall be used to enhance the natural color of the feed or feed ingredient whereby inferiority would be concealed; and

(6) grain, oilseeds, processed grain and oilseed meals containing aflatoxin B1, B2, G1, G2 above 20 parts per billion (ppb) individually or total except that with proper labeling as approved by the Office of the Texas State Chemist as follows: ≤50 ppb may be distributed when destined for wildlife; ≤100 ppb may be distributed when destined for breeding cattle and breeding goats not used in production of milk for human consumption, breeding swine, mature poultry, and sheep; ≤200 ppb may be distributed when destined for finishing swine (more than 100 lbs. body weight); ≤300 ppb may be distributed when destined for finishing cattle in confinement; grain containing >300 to ≤500 ppb requires a blending permit issued by the Office of the Texas State Chemist; aflatoxin >500 ppb in grain and >300 ppb in oilseed, processed grain, and oilseed meal may not enter commerce and a record of disposition shall be submitted to the Office of the Texas State Chemist;

(7) grain, oilseeds, processed grain, and oilseed meal containing fumonisin above 5 parts per million (ppm) except that with proper labeling as approved by the Office of the Texas State Chemist and targeted for animal species as follows: ≤20 ppm for swine and catfish not to exceed 50% of diet; ≤30 ppm for breeding ruminants, breeding poultry and breeding mink not to exceed 50% of diet; ≤60 ppm for ruminants > 3 months old being raised for slaughter, and mink being raised for pelt production not to exceed 50% of diet; ≤100 ppm for poultry being raised for slaughter not to exceed 50% of diet; all other species or classes of livestock and pet animals ≤10 ppm not to exceed 50% of diet except equids and rabbits which should not exceed 5 ppm and 20% of diet; >100 ppm requires a blending permit issued by the Office of the Texas State Chemist.

(b) Urea and other non-protein nitrogen products defined by the Association of American Feed Control Officials are acceptable ingredients in proprietary cattle, sheep, and goat feeds only, provided that the product's label complies in all respects with the requirements of §61.22(9) of this title (relating to Commercial Feed). These materials shall be considered adulterants in proprietary feeds for other animals and birds at any level.

(c) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to

destroy viability of such weed seeds so that the finished product contains no viable prohibited noxious weed seeds and not more than 50 viable restricted weed seeds per pound, and not more than 100 of other weed seeds per pound.

(d) The Service may require evidence satisfactory to the Service of:

(1) the safety of any commercial feed if such feed includes ingredients not approved either by the FDA or AAFCO (the Association of American Feed Control Officials); or

(2) the efficacy of any commercial feed when such feeds do not meet minimum standards of nutrition for the targeted animal as set forth by recognized authorities on animal nutrition.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 10, 2006.

TRD-200605548

Dr. Tim Herrman

State Chemist and Director

Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Effective date: October 30, 2006

Proposal publication date: July 7, 2006

For further information, please call: (979) 845-1121



TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 15. ALTERNATIVE FUELS RESEARCH AND EDUCATION DIVISION

SUBCHAPTER A. GENERAL RULES

16 TAC §15.30

The Railroad Commission of Texas adopts an amendment to 16 TAC §15.30, relating to Propane Alternative Fuels Advisory Committee, without changes to the version published in the August 25, 2006, issue of the *Texas Register* (31 TexReg 6610). The amendment to subsection (b) changes the date on which the committee is abolished from October 31, 2006, to October 31, 2010.

The Commission received no comments on the proposal.

The amendment is adopted under Texas Natural Resources Code, §113.242, which authorizes the Commission to appoint one or more advisory committees composed of members representing the LP-gas industry and other environmentally beneficial alternative fuels industries, consumers, and other interests to consult with and advise the Commission on opportunities and methods to expand the use of LP-gas and other environmentally beneficial alternative fuels.

Texas Natural Resources Code, §113.242, is affected by the adopted amendment.

Issued in Austin, Texas, on October 10, 2006.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 10, 2006.

TRD-200605537

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Effective date: October 30, 2006

Proposal publication date: August 25, 2006

For further information, please call: (512) 475-1295



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 101. DENTAL LICENSURE

22 TAC §101.7

The Texas State Board of Dental Examiners (Board) adopts the amendment of §101.7(b)(2)(D), concerning the reinstatement of a retired Texas dental license to active status. The amendment is adopted to clarify the number of hours of continuing education required for license holders who have not actively practiced for at least two years immediately preceding the request for reinstatement of a retired license.

The section is adopted without changes to the proposed text published in the May 26, 2006, issue of the *Texas Register* (31 TexReg 4324).

One comment was received from the Texas Dental Hygienist Association in support of the amendment as published.

The adopted amendment clarifies that a total of twenty-four hours of continuing education is required to meet the reinstatement requirements set out under §101.7(b).

The section is adopted under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The adopted section affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 16, 2006.

TRD-200605598

Jim Zukowski, Ed.D.
Executive Director
State Board of Dental Examiners
Effective date: November 5, 2006
Proposal publication date: May 26, 2006
For further information, please call: (512) 475-0972



CHAPTER 110. ENTERAL CONSCIOUS SEDATION

22 TAC §110.2

The Texas State Board of Dental Examiners (Board) adopts the amendment of §110.2(f)(2)(A), concerning minimum continuing education requirements for dentists administering enteral conscious sedation in the dental office. The amendment is adopted to require a dentist to take a minimum of six hours of continuing education in enteral conscious sedation every three years in order to maintain an enteral conscious sedation permit.

The section is adopted without changes to the proposed text published in the May 26, 2006, issue of the *Texas Register* (31 TexReg 4325).

Two comments were received in support of the amendment as published.

The section is adopted under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The adopted section affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Jim Zukowski, Ed.D.
Executive Director
State Board of Dental Examiners
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For further information, please call: (512) 475-0972



CHAPTER 113. REQUIREMENTS FOR DENTAL OFFICES

22 TAC §113.1, §113.2

The Texas State Board of Dental Examiners (Board) adopts new Chapter 113, regarding Requirements for Dental Offices. The adopted new Chapter 113 will replace the obsolete language found in repealed Chapter 113 regarding x-ray laboratory requirements. Specifically, new Chapter 113 will clarify minimum requirements for the operation of dental x-ray laboratories to ensure minimum requirements for safety and efficacy are met, ad-

dress newer technology regarding non-lead protective aprons, and address situations where a thyroid collar may prevent the taking of appropriate radiographs. The Board is adopting the repeal of current Chapter 113 simultaneously with this adopted new Chapter 113.

The section is adopted without changes to the proposed text published in the May 26, 2006, issue of the *Texas Register* (31 TexReg 4326).

No comments were received regarding the adoption of the amendment.

The administration and enforcement of the adopted new chapter is expected to benefit the public by ensuring that appropriate minimum requirements regarding the operation of dental x-ray laboratories are in place, and that changes in current technology regarding protective aprons is addressed.

The chapter is adopted under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The adopted chapter affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 16, 2006.

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Jim Zukowski, Ed.D.
Executive Director
State Board of Dental Examiners
Effective date: November 5, 2006
Proposal publication date: May 26, 2006
For further information, please call: (512) 475-0972



22 TAC §113.2

The Texas State Board of Dental Examiners (Board) adopts the repeal of Chapter 113, regarding Requirements for Dental Offices. The adopted repeal will remove obsolete language regarding x-ray laboratory requirements. Specifically, the repeal of Chapter 113 will allow for the adoption of new language to address newer technology that includes non-lead protective aprons and situations where a thyroid collar may prevent the taking of appropriate radiographs. The Board is adopting a new Chapter 113 simultaneously with the adopted repeal of this Chapter 113.

The section is adopted without changes to the proposed text published in the May 26, 2006, issue of the *Texas Register* (31 TexReg 4326).

No comments were received regarding the adoption of the amendment.

The repeal is adopted under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The adopted repeal affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Jim Zukowski, Ed.D.
Executive Director
State Board of Dental Examiners
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For further information, please call: (512) 475-0972



CHAPTER 114. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL ASSISTANTS

22 TAC §§114.2, 114.10, 114.11

The Texas State Board of Dental Examiners (Board) adopts the amendment of §§114.2, 114.10, and 114.11 concerning the registration and training of dental assistants. The amendment is adopted to clarify the status and transition between current and succeeding programs of dental assistant registration. The adopted amendments to these sections cover dental assistant registration, radiologic procedures and dental assistant training exemptions.

Adopted §114.2 clarifies that the authorization for dental assistants to position and expose radiographs (x-rays) under the former §115.10 (recodified as §114.10) prior to September 1, 2004, will expire in its entirety on September 1, 2006.

Adopted §114.10 clarifies that the former §115.10 will be superseded by adopted §114.2 and §114.20 on September 1, 2006.

Adopted §114.11 clarifies that dental assistants may position and expose, or otherwise make dental x-rays during the course of an on-the-job training period that may last up to one year.

The section is adopted without changes to the proposed text published in the May 26, 2006, issue of the *Texas Register* (31 TexReg 4327).

No comments were received regarding the adoption of the amendment.

These sections are adopted under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The adopted sections affect Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Jim Zukowski, Ed.D.
Executive Director
State Board of Dental Examiners
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For further information, please call: (512) 475-0972



CHAPTER 115. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL HYGIENE

22 TAC §115.1

The Texas State Board of Dental Examiners (Board) adopts the amendment of §115.1(2), concerning the definition of "Irreversible" and the prohibition on the intra oral use of any laser for any purpose by a dental hygienist. The amendment is adopted to remove from the definition of "Irreversible" the broad prohibition on the intra oral use of any type of laser for any purpose by dental hygienists. The change would allow dental hygienists to use laser based devices for non-therapeutic purposes such as the gathering of readings or other information for supervising dentists to use for diagnostic purposes. The amendment does not authorize the use of lasers by dental hygienists for therapeutic purposes or any purpose that is otherwise prohibited by law.

The section is adopted without changes to the proposed text published in the May 26, 2006, issue of the *Texas Register* (31 TexReg 4328).

No comments were received regarding the adoption of the amendment.

The adopted section is expected to benefit the public by enhancing the ability of dental hygienists to support dentists in providing patient care.

The section is adopted under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The adopted section affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 16, 2006.

TRD-200605599
Jim Zukowski, Ed.D.
Executive Director
State Board of Dental Examiners
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For further information, please call: (512) 475-0972



22 TAC §115.3

The Texas State Board of Dental Examiners (Board) adopts the amendment of §115.3, concerning the institutional employment of dental hygienists. The amendment is adopted to clarify the duties that may be performed by a dental hygienist in an institutional setting. The amendment also clarifies the process for approval of a location for the performance of dental hygiene duties when the Dental Practice Act does not specifically authorize the proposed duty location.

The section is adopted without changes to the proposed text published in the May 26, 2006, issue of the *Texas Register* (31 TexReg 4328).

No comments were received regarding the adoption of the amendment.

The section is adopted under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The adopted section affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-200605605

Jim Zukowski, Ed.D.

Executive Director

State Board of Dental Examiners

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Proposal publication date: May 26, 2006

For further information, please call: (512) 475-0972



CHAPTER 116. DENTAL LABORATORIES

22 TAC §116.5

The Texas State Board of Dental Examiners (Board) adopts the amendment of §116.5, relating to dental laboratory requirements for certified dental technicians. The amendment is adopted to require dental laboratories to maintain employment records necessary to validate compliance with the minimum requirements of §116.5 for two years.

The section is adopted without changes to the proposed text published in the May 26, 2006, issue of the *Texas Register* (31 TexReg 4329).

No comments were received regarding the adoption of the amendment.

The section is adopted under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The adopted section affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-200605604

Jim Zukowski, Ed.D.

Executive Director

State Board of Dental Examiners

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For further information, please call: (512) 475-0972



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 37. MATERNAL AND INFANT HEALTH SERVICES

The Executive Commissioner of the Health and Human Services Commission (commission) on behalf of the Department of State Health Services (department) adopts the repeal of §§37.51 - 37.67 and new §§37.51 - 37.65, concerning the Newborn Screening Program. New §§37.52, 37.53, 37.55 - 37.58, and 37.60 are adopted with changes to the proposed text as published in the July 7, 2006, issue of the *Texas Register* (31 TexReg 5436). The repeal of §§37.51 - 37.67 and new §§37.51, 37.54, 37.59, and 37.61 - 37.65 are adopted without changes and, therefore, the sections will not be republished.

BACKGROUND AND PURPOSE

The repeals and new sections are necessary to comply with House Bill (HB) 790, 79th Legislature, Regular Session, 2005, codified at Health and Safety Code, §§33.004, 33.011, 33.014, 33.031, 33.032, and 33.034, mandating the expansion of newborn screening in Texas by November 1, 2006. The repeal and new sections are necessary for readability, due to substantial editing.

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 37.51 - 37.67 have been reviewed, and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed. However, §37.63, relating to Calculation of Financial Participation Obligation, is being repealed because it will be addressed in program policy. Also, §37.67, relating to Nondiscrimination Statement, is being repealed as redundant, because federal and state law, as well as department policy, already specifically prohibit discrimination in each of the areas addressed by §37.67.

SECTION-BY-SECTION SUMMARY

New §§37.51 - 37.65 include editorial changes, provide clarification to the rules, add new definitions, and where applicable, change the department name from the legacy name to the new agency name. The new §37.51 changes "Texas Department of

Health" to "Department of State Health Services," and adds new language to address abnormal screens. The new §37.52 adds new definitions, clarifies other definitions, and rennumbers definitions to appear in alphabetical order. The new §37.53 expands the list of disorders for which newborn screens are required. The new §37.54 changes the terminology "screening tests" to "screens." The new §37.55 clarifies provider and parental responsibilities. The new §37.56 clarifies timelines for collecting and submitting blood specimens. The new §37.57 adds a reference to "the department designee" concerning screening procedures. The new §37.58 clarifies provider and local health department roles in providing follow-up on abnormal screens. The new §37.59 adds language to clarify the roles of the department's Children With Special Health Care Needs and Newborn Screening Programs. The new §§37.60 - 37.62 change language to reflect the specific benefits being addressed for specific populations, eligibility requirements, and the application process. The new §§37.63 - 37.65 concern denial of application, advisory bodies and task forces, and confidentiality of information.

COMMENTS

The department, on behalf of the commission, has reviewed and prepared responses to the comments received during the comment period, which the commission has reviewed and accepts. The commenters were associations, including the following: the Texas Medical Association, the Texas Pediatric Society, and the Texas Academy of Family Physicians collectively, the Texas Hospital Association, and the Coalition for Nurses in Advanced Practice. The commenters were not against the rules in their entirety; however, the commenters suggested recommendations for change as discussed in the summary of comments.

Comment: One commenter stated that the "Small and Micro-Business Impact Analysis" in the Proposed Preamble does not appear to have included the impact on physicians of performing confirmatory testing on newborns and assisting the department with follow-up. The commenter suggested a cost comparison listed in Texas Government Code, §2006.02, on the various activities those physicians who must submit specimens will be responsible for as a result of this regulatory mandate.

Response: The commission disagrees that changes in the "Small and Micro-Business Impact Analysis" were ever needed, because the sections as proposed do not require individual physicians to perform confirmatory testing for newborns; and the only "follow-up" required is provision of contact information so the department may locate the infants who may need or receive other services. No change was made to the rule as a result of this comment.

Comment: Concerning the definition of "health care practitioner" in §37.52(10) and the definition of "physician" in §37.52(16), one commenter recommended that the free-standing definition of physician be retained in §37.52(16), and the reference to physician be deleted from §37.52(10). Thus, in §§37.55(a), 37.55(d) - (e), 37.56(a), 37.57(3), 37.58(d) - (e), (g), and 37.60, the rule should be amended to read "physician or health care practitioner" rather than "health care practitioner." Concerning §37.52(16), one commenter suggested that "Texas State Board of Medical Examiners" should be changed to "Texas Medical Board," and another commenter advised that "Texas State Board of Medical Examiners" be changed to "Texas Board of Medicine."

Response: The commission agrees in part and has deleted "or a physician who is licensed by the Texas State Board of Medical

Examiners" in §37.52(10). The commission has revised the rule to read "physician or health care practitioner" rather than "health care practitioner" in §§37.55(a), 37.55(d), 37.56(a), 37.58(d) - (e), (g), and 37.60, but has not made this change in §37.55(d) because this subsection has been deleted, and in §37.57(3) and §37.58(c) because the "provider" refers to the submitter of the blood specimen only. The commission has changed "Texas State Board of Medical Examiners" to "Texas Medical Board" in §37.52(16).

Comment: Concerning the definition of "two screen specimen collection kit" in §37.52(22)(B), one commenter suggested "the first doctor's visit" be changed to read "the newborn's first health care visit."

Response: The commission agrees in general that a newborn's first healthcare visit need not be described specifically as "the first doctor's visit". However, the department has decided to utilize the first of the two collection kit methodologies as described in the response to the comment in §37.55(d), and has deleted the two-screen specimen collection kit alternative. The single screen kit may be used for the second screen, repeat or follow-up testing, as well as the newborn's first health visit. No change was made to the rule as a result of this comment.

Comment: Concerning §37.55(a), a commenter stated that the first sentence should be redrafted to require physicians and health care providers to take reasonable steps intended to cause screens to be performed and that satisfactory blood specimens are submitted. The commenter said the use of the words "primary responsibility" was unclear because one could suppose that another person has secondary responsibility. The commenter also expressed concern about the word "ensuring", stating that to "ensure" is to provide a guarantee, and that is an inappropriate burden to place upon physicians via regulation.

Response: The commission agrees in part because Health and Safety Code, §33.011, states that "The physician attending a newborn child or the person attending the delivery of a newborn child that is not attended by a physician shall subject the child to screening tests approved by the department for phenylketonuria, other heritable diseases, and hypothyroidism." The department has clarified language reflecting that statutory mandate, and deleted the reference to "ensuring" that a satisfactory blood specimen is submitted. A change has been made to the rule as a result of this comment.

Comment: Concerning §37.55(d), one commenter requested clarification on how hospitals will be notified that the two-part collection kit must be used.

Response: The commission agrees that the department should provide clarification to hospitals concerning how the alternate collection kit methodologies proposed in §37.52(22) will be used. The department has decided to utilize the single-screen kit, rather than the two-screen kit. Since the two-screen specimen kit described in §37.52(22)(B) will not be used, the implementation instructions in §37.55(d) have been deleted.

Comment: Concerning §37.56(a), one commenter requested clarification on the timeline for collection from premature or sick newborns and asked why the provisions in current §37.56(b) were not retained in the proposed section. Another commenter stated support for the position that, if program data demonstrate to the agency's satisfaction that the second screen is no longer necessary as a method of detecting false negative results from the first screen, the commissioner may discontinue the requirement for submission of the second screen.

Response: The commission disagrees because newborn screening disorders can be present in sick and premature newborns and, therefore, the blood specimen is to be obtained after 24 hours of age and before 48 hours of age. No change was made to the rule as a result of this comment. The commission thanks the commenter for its stated support.

Comment: Concerning §37.56(c), one commenter asked whether antibiotic therapy should be included and why the provision in current §37.56(e) pertaining to antibiotic treatment and invalid results was repealed.

Response: The commission disagrees because current testing technology is not invalidated by antibiotic therapy. No change was made to the rule as a result of this comment.

Comment: Concerning §37.57, a commenter recommends that the department include wording regarding the direction/support the department gives to hospitals or other non-physician practitioners submitting test specimens with positive results when the newborn/family have no medical home or primary care physician and retesting/confirmatory testing is required.

Response: The commission disagrees because "the direction/support the department gives to those hospitals or other non-physician practitioners" will be addressed in follow-up policies and procedures. No change was made to the rule as a result of this comment.

Comment: Concerning §37.57, a commenter recommends that §37.57(1), (2), and (3) be revised to read §37.57(a), (b) and (c).

Response: The commission disagrees, because "§37.57(1) - (3)" is required according to *Texas Register* formatting rules. No change was made as a result of this comment.

Comment: Concerning §37.57(3), one commenter recommended that results of the first and second screens be mailed to the hospital and the newborn's physician of record at time of discharge.

Response: The commission agrees in part because the department will be providing access to laboratory results 24 hours a day via a voice response system. A newborn's physician can at any time access the voice response system to obtain the laboratory results. The department also will have a web-based system that will provide laboratory results online 24 hours a day in a secure environment. The rule was revised to include the methods of providing laboratory results.

Comment: Concerning §37.58, one commenter urged the department to specify its responsibilities for long and short-term follow-up care for children who are found to suffer from the conditions listed in §37.53(1) - (8) concerning disorders.

Response: The commission disagrees because the department's duties regarding follow-up care will be addressed in follow-up policies and procedures. No change was made to the rule as a result of this comment.

Comment: Concerning §37.58(c), one commenter asked whether hospitals will be required to continue to follow and/or monitor the children who had positive screens once they are discharged from the hospital. Another commenter requested clarification on the department's procedures to ensure hospitals are not subject to administrative penalties.

Response: The commission disagrees because the department does not ask submitters of screening tests to follow and monitor children. The department requests that submitters provide all

available contact information to assist the department in locating children who need follow-up. The rules as written do not provide for administrative penalties. No change was made to the rule as a result of this comment.

Comment: Concerning §37.58(d), one commenter suggested that, "when appropriate," the names of consultants in the health care practitioner's geographic area should be provided by newborn screening staff "on the request of a physician".

Response: The commission agrees that the names of consultants shall be provided according to the criterion mandated by Health and Safety Code, §33.014(b); i.e., "if a screening test indicates that a newborn child is at high risk", rather than "when appropriate."

Comment: Concerning §37.58(d), a commenter asked what information the Newborn Screening Program will be providing to pediatric specialists about abnormal screening results. The commenter suggested that stakeholders should address this issue before the scope of this authorization to disclose information is placed in regulation.

Response: The commission agrees with the commenter's concern about what information is to be shared with pediatric specialists because clarification is needed. Health and Safety Code, §33.014(a), states that "The department may notify one or more of the following that the results of the analysis are abnormal and recommend that further testing is necessary: (1) the physician attending the newborn child or the physician's designee; (2) the person attending the delivery of the newborn child that was not attended by a physician; (3) the parents of the newborn child; (4) the health authority of the jurisdiction in which the newborn child was born or in which the newborn child resides, if known; or (5) physicians who are cooperating pediatric specialists for the program." A change has been made to the rule as a result of this comment.

Comment: Concerning §37.60, one commenter requested that clarification regarding the department's responsibility to assist newborns/families who have private insurance when the newborn has a private screen. The commenter asked if the department will work with the insurer to ensure the newborn receives appropriate care and include private-pay newborns in data collection for the newborn screening process.

Response: The commission disagrees because the department provides follow-up for all newborns/families when a newborn has an abnormal screen detected by the department and collects data on all newborns for the state's newborn screening system. No change was made to the rule as a result of this comment.

Comment: Concerning §37.64, one commenter stated that the regulation should mandate the creation of a lay advisory committee and a technical advisory committee to assist the program, rather than make such committees discretionary.

Response: The commission disagrees because the department currently has three ad hoc committees with membership that includes hematologists, metabolic specialists, and endocrinologists. The department is willing to extend membership on the ad hoc committees to include a pediatrician, a pediatrician who specializes in the care of children with metabolic disorders, a clinical geneticist who is a licensed physician, a family physician, and a parent(s). The ad hoc committees are provided with results of the screening process. No change was made to the rule as a result of this comment.

The following changes were made as a result of staff comments:

Change: Concerning §37.52(3), "Biotinidase" had been misspelled, and has been corrected.

Change: Concerning §37.53(8), the phrase "upon the decision of the Commissioner to include this disorder" has been deleted because the Commissioner has decided to include biotinidase deficiency among the disorders for which newborn screens are required.

Change: Concerning §37.60(1) - (3), the phrase "years of age" was added to the paragraphs to further clarify the age reference.

LEGAL CERTIFICATION

The Department of State Health Services, General Counsel, Cathy Campbell, certifies that the rules, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agencies' legal authority.

SUBCHAPTER D. NEWBORN SCREENING PROGRAM

25 TAC §§37.51 - 37.67

STATUTORY AUTHORITY

The adopted repeals are authorized by Health and Safety Code, §33.002(b) and §33.032(b), which require the department to adopt rules necessary to carry out the program; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 12, 2006.

TRD-200605566

Cathy Campbell

General Counsel

Department of State Health Services

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Proposal publication date: July 7, 2006

For further information, please call: (512) 458-7111 x6972



25 TAC §§37.51 - 37.65

STATUTORY AUTHORITY

The adopted new sections are authorized by Health and Safety Code, §33.002(b) and §33.032(b), which require the department to adopt rules necessary to carry out the program; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

§37.52. Definitions.

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

(1) 21-hydroxylase deficiency--An inherited disorder, which if not treated, may lead to serious illness and death.

(2) Amino acid disorder--An inherited disorder, which if not treated, may cause mental retardation or death.

(3) Biotinidase deficiency--An inherited disorder, which if not treated, may cause mental retardation, hearing loss, poor muscle control, or death.

(4) Bona fide resident--A person who:

(A) is physically present within the geographic boundaries of the state;

(B) has an intent to remain within the state;

(C) maintains an abode within the state (i.e., house or apartment, not merely a post office box);

(D) has not come to Texas from another country for the purpose of obtaining medical care, with the intent to return to the person's native country;

(E) does not claim residency in any other state or country; and

(i) is a minor child residing in Texas whose parent, managing conservator, or guardian is a bona fide resident;

(ii) is a person residing in Texas who is the legally dependent spouse of a bona fide resident; or

(iii) is an adult residing in Texas, including an adult whose parent, managing conservator, or guardian is a bona fide resident or who is his/her own guardian.

(5) Commissioner--The commissioner of the Department of State Health Services or his successor.

(6) Department--The Department of State Health Services or its successor.

(7) Diagnostic test--A medical evaluation to confirm results of a screen.

(8) Fatty acid oxidation disorder--An inherited disorder, which if not treated, may cause mental retardation or death.

(9) Galactose-1-phosphate uridylyltransferase deficiency--An inherited disorder, which if not treated, may cause fatal infection or mental retardation.

(10) Health care practitioner--A registered nurse recognized as an advanced practice nurse by the Board of Nurse Examiners, a physician assistant licensed by the Texas Physician Assistant Board, or a midwife who has met licensing requirements and standards of the Texas Midwifery Board.

(11) Heritable disease--An inherited disease that may result in mental or physical retardation or death.

(12) Hypothyroidism--A disorder, which if not treated, leads to mental and physical retardation.

(13) Newborn--A child through 30 days of age.

(14) Newborn screen--One or more tests to identify a newborn who may be at risk of having phenylketonuria, other heritable diseases, or hypothyroidism.

(15) Organic acidemia--An inherited disorder, which if not treated, may cause mental retardation or death.

(16) Physician--A person licensed to practice medicine by the Texas Medical Board.

(17) Provider--The hospital, birthing facility, health care practitioner, midwife, clinic, or laboratory that collects and submits the newborn screen blood specimen.

(18) Satisfactory specimen--A blood specimen obtained by uniform absorption of capillary blood onto a filter paper target such that the target is completely filled with blood and soaked through from back to front of the paper. The blood specimen must be completely dry before shipping and be submitted with the accurate and fully completed demographic information sheet.

(19) Screen--One or more tests that identify an increased risk for a disorder, which must be confirmed by diagnostic tests. A screen may produce false positive or false negative results and should not be relied upon as "diagnostic".

(20) Sickling hemoglobinopathy, including sickle cell anemia, hemoglobin S/C disease, and sickle betathalassemia--An inherited disorder which, if not treated, may cause fatal infection and interrupted blood supply to vital organs.

(21) Specimen collection form--The specimen collection form consists of a patient demographic information sheet (original and carbonless copy) with an attached filter paper collection device.

(22) Specimen collection kit--A single department-approved bar-coded, quality controlled filter paper collection device, demographic information sheet, and envelope which may be used to submit a newborn's blood specimen for the first or second screen, repeat or follow-up testing.

§37.53. Disorders for Which Newborn Screens Are Required.

Except as permitted in §37.54 of this title (relating to Exemption from Screens), all newborns delivered in Texas shall receive two screens for the following disorders:

- (1) galactose-1-phosphate uridylyltransferase deficiency;
- (2) sickling hemoglobinopathies;
- (3) 21-hydroxylase deficiency;
- (4) hypothyroidism;
- (5) amino acid disorders, including argininosuccinic acidemia, citrullinemia, homocystinuria, maple syrup urine disease, phenylketonuria, and tyrosinemia type I;
- (6) fatty acid oxidation disorders, including carnitine uptake defect, long-chain hydroxyacyl-CoA dehydrogenase deficiency, medium-chain acyl-CoA dehydrogenase deficiency, trifunctional protein deficiency, and very-long-chain acyl-CoA dehydrogenase deficiency;
- (7) organic acidemias, including 3-methylcrotonyl-CoA carboxylase deficiency, beta-ketothiolase deficiency, glutaric acidemia type I, hydroxymethylglutaric aciduria, isovaleric acidemia, methylmalonic acidemia (Cbl A and Cbl B forms), methylmalonic acidemia (mutase deficiency form), multiple carboxylase deficiency, and propionic acidemia; and
- (8) biotinidase deficiency.

§37.55. Responsibilities of Providers and Parent, Managing Conservator, or Guardian.

(a) Either a nonphysician attending the delivery of a newborn or any physician or health care practitioner attending a newborn within the first 30 days of life after delivery shall cause the screens to be performed according to these sections. When the baby is an inpatient in the hospital, the hospital shall ensure that the appropriate screens are done. When the baby is not in the hospital, the physician or health care

practitioner who attends the newborn outside of the hospital shall be responsible for causing the appropriate screens to be done.

(b) A capillary blood specimen shall be collected by absorbing the blood onto target circles on a filter paper collection device. Other body fluids, or blood from the placenta, umbilical cord, or mother are not acceptable.

(c) Blood specimens must air-dry on a flat surface for at least four hours and must be mailed to the department within 24 hours after collection. Directions for handling blood specimens must be followed to avoid cross-contamination.

(d) Providers shall ensure that the identifying and demographic information sheet is complete and accurate when submitted to the department. Identifying information shall include contact information for the newborn's physician or health care practitioner to ensure ability to contact the physician or practitioner in case of an abnormal screen.

§37.56. Blood Specimen Collection for Required Screens.

(a) The blood specimen is to be obtained after 24 hours of age and before 48 hours of age. If the newborn is discharged from the hospital or birthing facility before the above criteria are met, the blood specimen must be obtained immediately prior to discharge. A second blood specimen is to be collected between one and two weeks of age by the newborn's physician or health care practitioner in accordance with §37.55 of this title (relating to Responsibilities of Providers and Parent, Managing Conservator, or Guardian). If program data demonstrate to the agency's satisfaction that the second screen is no longer necessary as a method of detecting false negative results from the first screen, the commissioner may discontinue the requirement for submission of the second screen. The commissioner's decision shall be announced through means deemed appropriate by the commissioner to notify physicians, health care practitioners, providers, and other interested persons. Prior to the effective date of the announced change, the agency's newborn screening educational information will be revised to reflect the deletion of the second screen requirement.

(b) A repeat blood specimen, which may or may not be the second screen, shall be obtained as instructed by the Newborn Screening Program to verify results or if the initial blood specimen was unsatisfactory.

(c) Transfusions can cause invalid results. The first screen should be collected prior to the first transfusion if possible. Transfused newborns must be retested two to four weeks following transfusion.

§37.57. Screening Procedures To Be Used.

Analysis of the blood specimens for the required screens must be performed by the department or the department designee. The department or the department designee is responsible for identifying and implementing proper laboratory procedures for the screens required in §37.53 of this title (relating to Disorders for Which Screens Are Required).

(1) The analysis of initial blood specimens and the analysis of the follow-up blood specimens are included in these responsibilities.

(2) The criteria for referring a newborn with an abnormal screen are dependent upon the laboratory procedures employed by the department or the department's designee in performing the analysis of the blood specimens. Therefore, the department is responsible for identifying and implementing the referral criteria based upon the laboratory procedures selected by the department for the analysis.

(3) Upon completion of the laboratory determination by the department, laboratory results shall be mailed to the provider who submitted the blood specimen, and the laboratory results shall be available

by telephone and other electronic means. The department shall establish a written policy for communicating the laboratory results.

§37.58. Follow-up and Record Keeping on Abnormal Screens.

(a) The department shall maintain an active system of follow-up for suspected cases of each disorder for which screens are required.

(b) Health authorities, public health departments, public health districts, and the department's health service regions may provide follow-up and other needed assistance for individuals at risk from the disorders for which screens are required as requested by the department.

(c) The provider submitting the newborn screening specimen shall assist the department with follow-up of individuals at risk for the disorders listed in §37.53 of this title (relating to Disorders for Which Newborn Screens are Required).

(d) The department will identify pediatric specialists in the state who are available to provide consultation to physicians or health care practitioners regarding the diagnosis and management of newborns with abnormal screens. If a screening test indicates that a newborn child is at high risk, Newborn Screening Program staff shall provide the physician or health care practitioner with the names of consultants in the health care practitioner's geographic area. The program may provide information about abnormal screening results to the pediatric specialists who consult with the department.

(e) Physicians or health care practitioners shall report to the department all confirmed cases of the disorders for which required screens are performed that have been detected by other mechanisms.

(f) The department will collect epidemiologic data from information in the specimen collection kits and other sources to derive incidence/prevalence rates for the disorders for which screens are required. The data may enable the department to identify high-risk population groups, with the ultimate goal of preventing severe sequelae of the disorders.

(g) The department may follow up with a confirmed case through periodic data collection from the physician or health care practitioner or parent, managing conservator, or guardian.

(h) The department shall maintain a registry of children born in Texas who have been diagnosed as having one of the disorders for which screens are required.

§37.60. Newborn Screening Benefits.

In cooperation with the individual's physician or health care practitioner and within the limits of funds appropriated by the legislature for this purpose, the Newborn Screening Program shall provide dietary supplements, medications, vitamins, confirmatory testing and follow-up care at no cost or reduced cost to individuals approved for program benefits who have a disorder detected through the program, and confirmed with appropriate diagnostic tests, that have been interpreted by a physician recognized by the department as a specialist in metabolic diseases. Dependent on available funding, program benefits will be limited to specific populations of individuals diagnosed with an inheritable disorder included in those screened by the department and whose income is at or below 350% of the federal poverty income guideline. Dependent on available funding, program benefits will be available to the following populations in this order:

- (1) children 0-2 years of age;
- (2) children 3-5 years of age;
- (3) children 6-21 years of age;
- (4) pregnant women;

(5) women of child bearing age; and

(6) adults (female or male).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Cathy Campbell

General Counsel

Department of State Health Services

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For further information, please call: (512) 458-7111 x6972



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 16. COASTAL COORDINATION COUNCIL

CHAPTER 501. COASTAL MANAGEMENT PROGRAM

The Coastal Coordination Council (Council) adopts amendments to 31 TAC, Part 16, Chapter 501, relating to Coastal Management Program, §501.3 relating to Definitions and Abbreviations; §501.10 relating to Compliance with Goals and Policies; §501.13 relating to Administrative Policies; §501.16 relating to Policies for Construction of Electric Generating and Transmission Facilities; §501.21 relating to Policies for Discharge of Municipal and Industrial Wastewater to Coastal Waters; §501.23 relating to Policies for Development in Critical Areas; §501.25 relating to Policies for Dredging and Dredged Material Disposal and Placement; §501.28 relating to Policies for Development Within Coastal Barrier Resource System Units and Otherwise Protected Areas on Coastal Barriers; §501.31 relating to Policies for Transportation Projects; and §501.33 relating to Policies for Appropriations of Water. The adopted amendments update citations and make minor editorial corrections. These rule amendments have been undertaken as a result of the comprehensive review of the Council's rules mandated by Texas Government Code §2001.039, and will ensure that the rules are clear, necessary, and updated.

The rule amendments are adopted without changes to the text, as published in the April 7, 2006, issue of the *Texas Register* (31 TexReg 3006). The text will not be republished.

The Council received no public comment on the proposed rule amendments.

The adopted amendment of §501.3(b)(2)(A) corrects the citation to 36 Code of Federal Regulations, Part 63, Chapter 1, which should read: 36 Code of Federal Regulations, Chapter I, Part 63.

The adopted amendment of §501.3(b)(5) corrects the citation to the definition of "Wetlands," which is incorrectly cited as Texas Water Code §11.052. The definition is found in Texas Water Code §11.502.

The adopted amendment of §501.3(b)(7) updates the definition of "Critical erosion area" to make it consistent with the definition in Texas Natural Resources Code §33.203, which was amended by the 76th Texas Legislature, SB 1690, effective September 1, 1999.

The adopted amendment of §501.3(b)(16) updates the name of the Texas Natural Resource Conservation Commission to the Texas Commission on Environmental Quality.

The adopted amendment of §501.10(a) corrects the reference to the "goals and policies in §§501.12 - 501.15 of this title (relating to Goals, Administrative Policies, and Policies for Specific Activities and Coastal Natural Resource Areas)." Section 501.14, relating to Policies for Specific Activities and Coastal Natural Resource Areas) was repealed and readopted as §§501.16 - 501.34, effective October 6, 2004 (29 TexReg 9408, October 1, 2004). Section 501.10(a), as amended, will reference "the goals and policies in this subchapter."

The adopted amendment of §501.13(a)(4) updates the reference to the "Texas CMP Document, Chapter XX." When §501.13(a)(4) was adopted in 1995, the "CMP Document" had not yet been finalized, so this reference was written into §501.13(a)(4) as a placeholder. The correct name and chapter number of the "CMP Document" is the "Texas Coastal Management Program Final Environmental Impact Statement, August 1996, Part II, Chapter 7."

The adopted amendment of §501.16(a)(4) inserts the phrase "as those maps may be modified, revised, or corrected" to conform with the language of the Coastal Barrier Resources Act, 16 USC §3503(a). Although 16 USC §3503(a) allowed for the revision of the Coastal Barrier Resources System maps by the Secretary of the Interior, similar language was not included in §501.16(a)(4) when the policies in §501.16 were first adopted. The Coastal Barrier Resources Act, 16 USC §3503(a), was amended in 2000 to clarify the authority under which those maps may be modified, revised, or corrected (Pub. L. 106-514, Sec. 3(d), Nov. 13, 2000, 114 Stat. 2394, 2395). The adopted amendment will make §501.16(a)(4) consistent with 16 USC §3503(a), as amended.

The adopted amendment of §501.16(b) updates the citation to Texas Civil Statutes, Article 1446c, the Public Utility Regulatory Act, which was codified in Texas Utilities Code §11.001, et seq., in 1997 (Acts 1997, 75th Leg., ch. 166, § 1, eff. Sept. 1, 1997).

The adopted amendment of §501.21(a)(2) updates this rule to conform with Texas Water Code §26.0135, regarding the requirement that Texas Commission on Environmental Quality (TCEQ) rules provide for the assessment of water quality on a coastal watershed basis once every two years. The adopted amendment removes the words "once every two years" to reflect a statutory change to Texas Water Code §26.0135(d). When the policies in §501.21(a)(2) were first adopted, Texas Water Code §26.0135(d) required each river authority to report on water quality assessments on or before October 1 of each even-numbered year. However, §26.0135(d) was amended in 1997 to require river authorities to submit a water quality report in the appropriate year of the cycle provided by TCEQ rules (Acts 1997, 75th Leg., ch. 101, §1, eff. Sept. 1, 1997). The adopted amendment of §501.21(a)(2) makes the rule consistent with the statutory change to Texas Water Code §26.0135(d).

The adopted amendment of §501.23(b), updates the citation to "Texas Civil Statutes, Article 5421u," which was codified in Chapter 221 of the Texas Natural Resources Code in 1997 (Acts 1997, 75th Leg., ch. 165, § 24.01(a), eff. Sept. 1, 1997).

The adopted amendment of §501.25(i) updates the citation to "Texas Civil Statutes, Article 5415e-2," which was codified in Chapter 51 of the Texas Transportation Code in 1995 (Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995).

The adopted amendment of §501.28(a) inserts the phrase "as those maps may be modified, revised, or corrected" to conform with the language of 16 USC §3503(a) (the Coastal Barrier Resources Act). Although 16 USC §3503(a) allowed for the revision of the Coastal Barrier Resources System maps by the Secretary of the Interior, similar language was not included in §501.28(a) when the policies in §501.28(a) were first adopted. The Coastal Barrier Resources Act was amended in 2000 to clarify the authority under which those maps may be modified, revised, or corrected (Pub. L. 106-514, Sec. 3(d), Nov. 13, 2000, 114 Stat. 2394, 2395). The adopted amendment will make §501.28(a) consistent with 16 USC §3503(a), as amended.

The adopted amendment of §501.28(b) updates the statutory references applicable to the TCEQ's issuance of rules regarding the creation of special districts and for infrastructure projects funded by issuance of bonds by water, sanitary sewer, and wastewater drainage districts. Section 501.28(b) currently references Texas Water Code, Chapter 50, which was largely repealed in 1995 and replaced by Sections in Chapters 49 and 59 of the Texas Water Code, which contain statutes that authorize the TCEQ to approve the creation of special utility districts and the issuance of bonds (Acts 1995, 74th Leg., ch. 715, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 715, § 3, eff. Sept. 1, 1995). However, Chapter 50 still contains §50.107, which provides the TCEQ authority over the issuance of bonds. Accordingly, the adopted amendment adds references to Chapters 49 and 59, but does not delete the reference to Chapter 50. The adopted amendment of §501.28(b) also updates the reference to Texas Civil Statutes, Article 6663 et seq, to indicate that Article 6663, et seq. was repealed and codified in multiple Chapters in the Transportation Code, starting with Title 6, Chapter 201 (Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995). Accordingly, the citation to Texas Civil Statutes, Article 6663 et seq. is replaced with a citation to Transportation Code Chapter 201, et seq.

The adopted amendment of §501.31(b) updates the citations to Texas Civil Statutes, Article 6663b and 6663c, and Article 6674a et seq., governing transportation projects within the coastal zone. Texas Civil Statutes, Articles 6663b and 6663c were repealed in 1995 and codified in Texas Transportation Code §§455.001 - 455.004; 456.001 - 456.008; 456.021 - 456.026; and 456.042, while Texas Civil Statutes, Articles 6674a et seq. were repealed in 1995 and codified in Texas Transportation Code §221.001, et seq (Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995).

The adopted amendment of §501.33(a)(8) clarifies the reference to the "commission" by changing it to "TCEQ," which is defined as the Texas Commission on Environmental Quality in §501.3(c)(7).

The adopted amendment of §501.33(a)(12) updates the title of 30 TAC §295.9, as referenced in §501.33(a)(12). The TCEQ amended 30 TAC §295.9 effective February 21, 1999, changing the title of the rule to "Water Conservation and Drought Contingency Plans" and changing the term "conservation plans" to "water conservation plans" within the rule (24 TexReg 969, February 12, 1999).

Pursuant to Texas Government Code §2001.0225, a regulatory analysis is not required for the adopted rulemaking as a "major environmental rule." The adopted rulemaking will not adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The adopted rulemaking does not exceed a standard set by federal law, does not exceed an express requirement of state law, does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state or federal program, and is not adopted solely under the general powers of the Council.

SUBCHAPTER A. GENERAL PROVISIONS

31 TAC §501.3

The amendments are adopted under Texas Natural Resources Code, Chapter 33, including §33.051, which authorizes the Council and the Texas General Land Office to perform the duties provided in Chapter 33, Subchapter C; §33.052, which authorizes the commissioner to develop a continuing comprehensive CMP; §33.053, which sets out the elements of the CMP, including a description of the organizational structure for implementing and administering the CMP; §33.054, which allows the commissioner to review and amend the CMP as new information or changed conditions may warrant; and §33.204, which authorizes the Council to adopt goals and policies of the CMP by rule.

The adopted amendments are necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Trace Finley

Policy Director, General Land Office

Coastal Coordination Council

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For further information, please call: (512) 475-1859



SUBCHAPTER B. GOALS AND POLICIES

31 TAC §§501.10, 501.13, 501.16, 501.21, 501.23, 501.25, 501.28, 501.31, 501.33

The amendments are adopted under Texas Natural Resources Code, Chapter 33, including §33.051, which authorizes the Council and the Texas General Land Office to perform the duties provided in Chapter 33, Subchapter C; §33.052, which authorizes the commissioner to develop a continuing comprehensive CMP; §33.053, which sets out the elements of the CMP, including a description of the organizational structure for implementing and administering the CMP; §33.054, which allows the commissioner to review and amend the CMP as new information or changed conditions may warrant; and §33.204, which authorizes the Council to adopt goals and policies of the CMP by rule.

The adopted amendments are necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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CHAPTER 505. COUNCIL PROCEDURES FOR STATE CONSISTENCY WITH COASTAL MANAGEMENT PROGRAM GOALS AND POLICIES

The Coastal Coordination Council (Council) adopts amendments to 31 TAC, Part 16, Chapter 505, relating to Council Procedures for State Consistency With Coastal Management Program Goals and Policies, §505.11 relating to Actions and Rules Subject to the Coastal Management Program; §505.21 relating to Effect of Council Certification of Agency Rules and Rule Amendments; §505.22 relating to Consistency Required for New Rules and Rule Amendments Subject to the Coastal Management Program; §505.23 relating to Council Certification of Rules and Rule Amendments; §505.24 relating to Pre-Certification Review of Draft Rules or Draft Rule Amendments; §505.32 relating to Requirements for Referral of a Proposed Agency Action; §505.36 relating to Standard of Council Review of a Proposed Agency Action; §505.37 relating to Activities Pending Council Review of a Proposed Agency Action; and §505.50 relating to General Plans. The adopted amendments update citations and make minor editorial corrections. These rule amendments have been undertaken as a result of the comprehensive review of the Council's rules mandated by Texas Government Code §2001.039, and will ensure that the rules are clear, necessary, and updated.

The rule amendments are adopted without changes to the text, as published in the April 7, 2006, issue of the *Texas Register* (31 TexReg 3010). The text will not be republished.

The Council received no public comment on the proposed rule amendments.

The adopted amendment of §505.11(c), (d), and (e)(4) corrects the titles of Subchapters B and C, and corrects the reference to the location of Subchapters B and C, which should be referenced as residing in the "chapter" rather than the "title."

The adopted amendment of §505.21 corrects the titles of §505.23 and §505.26, as referenced in §505.21.

The adopted amendment of §505.22(d) corrects the title of §505.24, as referenced in §505.22(d).

The adopted amendment of §505.23(a) corrects the title of §505.11, as referenced in §505.23(a).

The adopted amendment of §505.23(e) corrects the reference to Section "505.11" by adding a section symbol (§).

The adopted amendment of §505.24(a) corrects the title of §505.11, as referenced in §505.24(a).

The adopted amendment of §505.32(b) corrects the title of §505.26, as referenced in §505.32(b).

The adopted amendment of §505.36(b)(3) corrects the title of §505.26, as referenced in §505.36(b)(3).

The adopted amendment of §505.37 clarifies that the reference to §2001.054 of the Texas Administrative Procedure Act is in the Government Code.

The adopted amendment of §505.50(2) deletes the reference to the State Coastal Discharge Contingency Plan (Plan) because the General Land Office no longer has statutory authority to develop the Plan. The 78th Texas Legislature, Regular Session 2003, amended Texas Natural Resources Code §40.053 to delete all references to the Plan because the Legislature determined that it is not necessary to develop the Plan. Instead, as noted in the House Committee Report for SB 619, the General Land Office has participated with the U.S. Coast Guard in the development of Area Contingency Plans, which cover the entire Texas coast and serve the same purpose. The remaining paragraphs in §505.50 are renumbered accordingly.

The adopted amendment of §505.50(3) adds a reference to Subchapter G in Chapter 26 of the Texas Water Code, to more specifically identify the statutory authority for the State Oil and Hazardous Substance Spill Contingency Plan.

Pursuant to Texas Government Code §2001.0225, a regulatory analysis is not required for the adopted rulemaking as a "major environmental rule." The adopted rulemaking will not adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The adopted rulemaking does not exceed a standard set by federal law, does not exceed an express requirement of state law, does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state or federal program, and is not adopted solely under the general powers of the Council.

SUBCHAPTER A. PURPOSE AND POLICY AND STATE AGENCY ACTIONS SUBJECT TO THE COASTAL MANAGEMENT PROGRAM

31 TAC §505.11

The amendments are adopted under Texas Natural Resources Code, Chapter 33, including §33.051, which authorizes the Council and the Texas General Land Office to perform the duties provided in Chapter 33, Subchapter C; §33.052, which authorizes the commissioner to develop a continuing comprehensive CMP; §33.053, which sets out the elements of the CMP, including a description of the organizational structure for implementing and administering the CMP; §33.054, which allows the commissioner to review and amend the CMP as new information or changed conditions may warrant; §33.204, which authorizes the Council to adopt goals and policies of the CMP by rule; and §33.2052, which authorizes the Council, by rule, to establish a process by which an agency may submit rules and rule amendments to the Council for review and certification for consistency with the goals and policies of the CMP.

The adopted amendments are necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 9, 2006.

TRD-200605530

Trace Finley

Policy Director, General Land Office

Coastal Coordination Council

Effective date: October 29, 2006

Proposal publication date: April 7, 2006

For further information, please call: (512) 475-1859



SUBCHAPTER B. COUNCIL REVIEW AND CERTIFICATION OF AGENCY RULES

31 TAC §§505.21 - 505.24

The amendments are adopted under Texas Natural Resources Code, Chapter 33, including §33.051, which authorizes the Council and the Texas General Land Office to perform the duties provided in Chapter 33, Subchapter C; §33.052, which authorizes the commissioner to develop a continuing comprehensive CMP; §33.053, which sets out the elements of the CMP, including a description of the organizational structure for implementing and administering the CMP; §33.054, which allows the commissioner to review and amend the CMP as new information or changed conditions may warrant; §33.204, which authorizes the Council to adopt goals and policies of the CMP by rule; and §33.2052, which authorizes the Council, by rule, to establish a process by which an agency may submit rules and rule amendments to the Council for review and certification for consistency with the goals and policies of the CMP.

The adopted amendments are necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 9, 2006.

TRD-200605531

Trace Finley

Policy Director, General Land Office

Coastal Coordination Council

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For further information, please call: (512) 475-1859



SUBCHAPTER C. CONSISTENCY AND COUNCIL REVIEW OF PROPOSED STATE AGENCY ACTIONS

31 TAC §§505.32, 505.36, 505.37

The amendments are adopted under Texas Natural Resources Code, Chapter 33, including §33.051, which authorizes the

Council and the Texas General Land Office to perform the duties provided in Chapter 33, Subchapter C; §33.052, which authorizes the commissioner to develop a continuing comprehensive CMP; §33.053, which sets out the elements of the CMP, including a description of the organizational structure for implementing and administering the CMP; §33.054, which allows the commissioner to review and amend the CMP as new information or changed conditions may warrant; §33.204, which authorizes the Council to adopt goals and policies of the CMP by rule; and §33.2052, which authorizes the Council, by rule, to establish a process by which an agency may submit rules and rule amendments to the Council for review and certification for consistency with the goals and policies of the CMP.

The adopted amendments are necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 9, 2006.

TRD-200605532

Trace Finley

Policy Director, General Land Office

Coastal Coordination Council

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Proposal publication date: April 7, 2006

For further information, please call: (512) 475-1859



SUBCHAPTER D. COUNCIL ADVISORY OPINIONS ON GENERAL PLANS

31 TAC §505.50

The amendments are adopted under Texas Natural Resources Code, Chapter 33, including §33.051, which authorizes the Council and the Texas General Land Office to perform the duties provided in Chapter 33, Subchapter C; §33.052, which authorizes the commissioner to develop a continuing comprehensive CMP; §33.053, which sets out the elements of the CMP, including a description of the organizational structure for implementing and administering the CMP; §33.054, which allows the commissioner to review and amend the CMP as new information or changed conditions may warrant; §33.204, which authorizes the Council to adopt goals and policies of the CMP by rule; and §33.2052, which authorizes the Council, by rule, to establish a process by which an agency may submit rules and rule amendments to the Council for review and certification for consistency with the goals and policies of the CMP.

The adopted amendments are necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 9, 2006.

TRD-200605533

Trace Finley
Policy Director, General Land Office

Coastal Coordination Council

Effective date: October 29, 2006

Proposal publication date: April 7, 2006

For further information, please call: (512) 475-1859



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER H. TAX RECORD REQUIREMENTS

34 TAC §9.3044

The Comptroller of Public Accounts adopts amendments to §9.3044, concerning appointment of agents for property taxes, without changes to the proposed text as published in the September 1, 2006, issue of the Texas Register (31 TexReg 7099).

Tax Code, §1.111(b) requires that the designation of an agent must be made by written authorization signed by the owner, a property manager authorized to designate agents for the owner, or other person authorized to act on behalf of the owner, and must clearly indicate that the person is authorized to act on behalf of the owner in property tax matters. Tax Code, §1.111(d) further prohibits the designation of more than one agent to represent a property owner in connection with "an item of property."

The rule is being amended to clarify that in the event of duplicative designations of agents resulting from additions or deletions of accounts on form 50-163, form 50-162-1 controls the appropriate agent designation. It is also being amended to clarify that registered property tax consultants may not sign forms 50-162-1 and 50-241-1 on behalf of property owners.

The rule is being amended to delete subsections (g) and (h). These provisions concern the filing of agent appointment forms before the effective date of the rule.

Comments were received from 3 different county appraisal districts. Bexar County Appraisal District and Coryell County Appraisal District agreed with the changes. El Paso County Appraisal District (CAD) suggested three changes. El Paso CAD commented on delays that have arisen owing to the manner in which agents notify the CAD of termination of representation. The CAD suggested that forms 50-241 and 50-162 be changed to clarify the option to list multiple properties in order to clarify the use of form 50-163. Another comment mentioned that appointment of agent forms used by companies that charge a fee for filing Homestead Exemption Applications have caused the Notice of Appraised Value and Tax Bills to sometimes go to the company instead of the owner. The comptroller did not make the changes because they were not within the scope of the proposed amendments.

The amendment is proposed under Tax Code, §1.111(h), which requires that the comptroller adopt rules to facilitate compliance with the law.

The amendment implements Tax Code, §1.111(b) and (d).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 11, 2006.

TRD-200605564

Martin Cherry

Chief Deputy General Counsel

Comptroller of Public Accounts

Effective date: October 31, 2006

Proposal publication date: September 1, 2006

For further information, please call: (512) 475-0387



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 3. TEXAS YOUTH COMMISSION

CHAPTER 85. ADMISSION, PLACEMENT, AND PROGRAM COMPLETION

The Texas Youth Commission adopts amendments to §§85.21, 85.23, 85.41, 85.45, 85.51, 85.55, 85.59, 85.61 and 85.69, concerning admission to and release from the commission's high restriction programs. With the exception of §85.51, all amendments are adopted without changes to the proposed text as published in the September 1, 2006, issue of the *Texas Register* (31 TexReg 7100).

Section 85.51 is adopted with changes to the proposed text as published in the September 1, 2006, issue of the *Texas Register* (31 TexReg 7105). Changes to the proposed text consist of adding language to the definition of Special Services Committee which indicates the function of this committee. The proposed definition included only the staff members comprising the committee.

The justifications for amending the sections are: 1) ensuring that youth who have the greatest need for specialized treatment are provided such treatment, provided they have sufficient time remaining on their lengths of stay; 2) providing for the timely release of youth who have met the requirements for parole release; and 3) allowing for youth to be assigned to the most appropriate placements when their unique circumstances and risk level indicate their rehabilitation would be most effective in a less restrictive setting.

The amendment to §85.21 authorizes the executive director to waive the designated restriction level for sentenced and Type A violent offenders, allowing for a placement of other than high restriction.

The amendment to §85.23 consolidates language concerning concurrent commitments that had previously been included in §§85.59, 85.61, and 85.69.

The amendment to §85.41 clarifies that youth who have had the requirement to complete specialized treatment waived are subject to the provisions of the rule. The amendment further clarifies that the rule does not apply to youth placed in the Aggression Management Program only during the time they are in the pro-

gram. The rule is applicable to youth who have completed the Aggression Management Program.

The amendments to §§85.45, 85.55, 85.59, 85.61, and 85.69 remove April 1, 2005, as the cutoff date for commitments after which youth are required to complete specialized treatment to earn release on parole. As a result of this change, all youth, regardless of commitment date, are required to complete specialized treatment if they are determined to have the highest priority level for such treatment. Youth committed prior to April 1, 2005, who do not have sufficient time remaining on their minimum length of stay to complete the required specialized treatment program will have this requirement waived under new §87.55, which is adopted in this issue of the *Texas Register*.

The amendment to §85.51 defines the composition and purpose of the Special Services Committee. This definition is removed from §85.41.

The amended §§85.55, 85.59, and 85.61 also include a new requirement that the Special Services Committee hold the exit interview/review within a certain number of calendar days, according to a youth's classification, from the date the youth meets program completion requirements. The deadline for release of an eligible youth to parole will now be counted from the date the youth meets program completion criteria, not the date of the exit interview/review.

Additionally, the amended §§85.59 and 85.61 no longer include language concerning termination of the commission's jurisdiction. This subject is addressed in §85.65.

No comments were received regarding adoption of the amendments.

SUBCHAPTER B. PLACEMENT PLANNING

37 TAC §85.21, §85.23

The amendments are adopted under the Human Resources Code, §61.075, which provides the commission with the authority to order a child's confinement under conditions it believes best designed for the child's welfare and the interests of the public, and §61.034, which provides the commission with the authority to make rules appropriate to the accomplishment of its functions.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 12, 2006.

TRD-200605569

Dwight Harris

Executive Director

Texas Youth Commission

Effective date: November 1, 2006

Proposal publication date: September 1, 2006

For further information, please call: (512) 424-6014



SUBCHAPTER C. MOVEMENT WITHOUT PROGRAM COMPLETION

37 TAC §85.41, §85.45

The amendments are adopted under the Human Resources Code, §61.075, which provides the commission with the authority to order a child's confinement under conditions it believes best designed for the child's welfare and the interests of the public, and §61.034, which provides the commission with the authority to make rules appropriate to the accomplishment of its functions.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-200605570

Dwight Harris

Executive Director

Texas Youth Commission

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Proposal publication date: September 1, 2006

For further information, please call: (512) 424-6014



SUBCHAPTER D. PROGRAM COMPLETION

37 TAC §§85.51, 85.55, 85.59, 85.61, 85.69

The amendments are adopted under the Human Resources Code, §61.075, which provides the commission with the authority to order a child's confinement under conditions it believes best designed for the child's welfare and the interests of the public, and §61.034, which provides the commission with the authority to make rules appropriate to the proper accomplishment of its functions.

§85.51. Definitions.

The following words and terms, as used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Administrative transfer--a lateral movement, i.e., a movement from one program to another program within the same restriction level for an administrative purpose. Purposes may include but are not limited to proximity to a youth's home, specific treatment needed becomes available, appropriateness of placement due to education needs, age, etc.

(2) Classification--the designation assigned each youth based on the youth's offense history, the classifying offense, and a finding regarding extenuating circumstances incident to the classifying offense. See §85.23 of this title for classification assignments.

(3) Exit review/interview--is a process by which the Special Service Committee (SSC) for high restriction, the superintendent for medium restriction or the quality assurance supervisor for contract care programs, determines whether the youth meets program completion criteria and whether the transition/release Individual Case Plan (ICP) adequately addresses the youth's identified risk factors for re-offending. The SSC is required to conduct a face-to-face interview with sentenced and Type A offenders, along with review and approval of the release packet.

(4) High restriction and medium restriction--see definitions in §85.27 of this title.

(5) Home placement--is a placement in the home of the parent, other relative or individual acting in the role of parent, managing conservator, or guardian, or an independent living arrangement

(excluding contract independent living programs), for youth who have earned parole status. Parole status is defined in paragraph (9) of this section.

(6) Home substitute placement--is a program placement in the community that is not high restriction, for youth who have earned parole status.

(7) Initial placement--a placement to which youth are assigned following a period of assessment at the Marlin Orientation Assessment Unit (MOAU) upon being committed to TYC.

(8) Minimum length of stay (MLOS) and Minimum period of confinement (MPC)--see definitions in §85.25 of this title.

(9) Parole status--a status assigned to a youth when program completion criteria have been met, which qualifies the youth for placement in the home or home substitute and ensures that the youth shall not be moved to a high restriction placement without the highest level of due process afforded to Texas Youth Commission (TYC) youth.

(10) Program completion criteria--the criteria which a youth must meet while in the current program in order to move to a placement of less restriction. Program completion criteria are based on youth's classification and the phase of the Resocialization program, which are outlined in Subchapter C of this chapter.

(11) Release under supervision--also referred to as "release", when the youth remains under the jurisdiction of TYC and is subject to the conditions of parole supervision.

(12) Risk factors--statuses or conditions that are empirically associated with an increased risk of recidivism. Risk factors may be static and unchangeable or dynamic and responsive to interventions.

(13) Release packet--includes specific documents for review and approval prior to a youth's release. The documents are organized in tabbed sections in a notebook to form the release packet. The release packet includes the following information:

- (A) psychological evaluation;
- (B) transition/release plan;
- (C) home assessment, if applicable;
- (D) incident summary;
- (E) specialized treatment summary, if applicable; and
- (F) victim involvement information, if applicable.

(14) Special Services Committee (SSC)--the SSC is a standing committee that reviews youth progress toward program completion requirements and readiness for release into the community. The SSC consists of at least five (5) members and must include:

- (A) director of clinical services (DOCS), chairperson;
- (B) program specialist (1 to 3); and
- (C) principal.

(15) Specialized treatment for Priority 1 youth--upon admission to TYC, all youth undergo clinical assessments to determine specialized treatment needs. Youth are prioritized for treatment based on risk, offense classification, and/or diagnosis. Youth with the greatest need for any of the following treatment programs will be required to successfully complete the program prior to release eligibility:

- (A) Sexual Behavior Treatment Program;
- (B) Chemical Dependency Treatment Program; or

(C) Capital and Serious Violent Offender Treatment Program.

(16) Transfer--is a movement of sentenced offenders to either Texas Department of Criminal Justice-Institution Division (TDCJ-ID) or Texas Department of Criminal Justice-Parole Division (TDCJ-PD) when:

(A) ordered by the juvenile court; or

(B) meets transfer criteria pursuant to §85.65 of this title; or

(C) youth at age 21 who was sentenced for capital murder where the offense was committed on or after September 1, 2003 and who has not completed the sentence will be transferred to TDCJ-PD without the juvenile court's approval; or

(D) youth at age 21 who was sentenced for any offense other than capital murder and who has not completed the sentence in high restriction facilities will be transferred to TDCJ-PD without the juvenile court's approval.

(17) Transfer packet--includes specific documents for review and approval prior to transfer of a youth to the Texas Department of Criminal Justice-Institutional Division (TDCJ-ID) or Texas Department of Criminal Justice-Parole Division (TDCJ-PD). The documents are organized in tabbed sections in a notebook to form the transfer packet.

(A) The transfer packet for TDCJ-PD includes the following information:

(i) forensic psychological evaluation;

(ii) transition/release plan;

(iii) incident summary;

(iv) specialized treatment summary, if applicable;

and

(v) victim involvement information, if applicable.

(B) The transfer packet for TDCJ-ID includes the following information:

(i) forensic psychological evaluation;

(ii) specialized treatment summary, if applicable;

(iii) behavior summary;

(iv) incident summary; and

(v) victim involvement information, if applicable.

(18) Transition--is a movement from one program site to another for purposes of facilitating the youth's adjustment to the community when youth who have met the required transition criteria. Transition is always to placement of equal or less restriction than that of the current placement. Transition is not a type of placement or a status. For transition criteria, see §85.45 of this title.

(19) Transition/Release plan--consists of a transition/release individual case plan (ICP) for youth who are moving from one program to another or from one facility to a different facility. The transition/release ICP identifies risk factors and protective factors that enable youth and staff to develop plans to minimize risk and take advantage of protective factors.

(20) Type A Violent Offender, Type B Violent Offender, Chronic Serious Offender, Controlled Substances Dealer, Firearms Offender, and General Offender--see definitions in §85.23 of this title.

(21) Type 1 offenses--the offenses for which a youth has been given a determinate sentence, specifically: the commission, attempted commission, conspiracy to commit, solicitation, solicitation of a minor to commit, or engaging in organized criminal activity to commit murder, capital murder, sexual assault, or aggravated sexual assault.

(22) Type 2 offenses--all other offenses, except Type 1 offenses, for which a youth has been given a determinate sentence.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 12, 2006.

TRD-200605571

Dwight Harris

Executive Director

Texas Youth Commission

Effective date: November 1, 2006

Proposal publication date: September 1, 2006

For further information, please call: (512) 424-6014



CHAPTER 87. TREATMENT

SUBCHAPTER B. SPECIAL NEEDS

OFFENDER PROGRAMS

37 TAC §87.55

The Texas Youth Commission (the commission) adopts new §87.55, concerning Waivers from Certain Specialized Treatment Programs, without changes to the proposed text as published in the September 1, 2006, issue of the *Texas Register* (31 TexReg 7114).

The justification for the new rule is the efficient use of agency resources and timely release to parole for eligible youth. The rule establishes criteria for waiving the requirement for youth with the highest need for specialized treatment to complete their required specialized treatment program. Waivers may be granted when agency resources prevent a youth from completing treatment during his assigned length of stay; when a youth is unable to complete treatment due to medical, mental health, or mental retardation issues; or for other reasons deemed appropriate.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.075 and §61.034, which provide the commission with the authority to confine a youth under conditions it believes are best designed for the youth's welfare and make rules appropriate to the proper accomplishment of its functions.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 12, 2006.

TRD-200605572

Dwight Harris
Executive Director
Texas Youth Commission
Effective date: November 1, 2006
Proposal publication date: September 1, 2006
For further information, please call: (512) 424-6014



CHAPTER 97. SECURITY AND CONTROL

SUBCHAPTER A. SECURITY AND CONTROL

The Texas Youth Commission simultaneously adopts the repeal of §97.23, concerning Physical Restraint, and new §97.23, concerning Use of Force, without changes to the proposed text as published in the September 1, 2006, issue of the *Texas Register* (31 TexReg 7115).

The justification for the new rule is the safety and protection of youth and staff from harmful or dangerous conduct. The new rule provides greater clarity and consistency as to when physical restraint is to be used and what steps should be taken to prevent the need for it.

No comments were received regarding adoption of the repeal and new rule.

37 TAC §97.23

The repeal is adopted under the Human Resources Code, §61.034, which provides the commission with the authority to make rules appropriate to the proper accomplishment of its functions.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 12, 2006.

TRD-200605573
Dwight Harris
Executive Director
Texas Youth Commission
Effective date: November 1, 2006
Proposal publication date: September 1, 2006
For further information, please call: (512) 424-6014



37 TAC §97.23

The new rule is adopted under the Human Resources Code, §61.075, which provides the commission with the authority to confine a youth under conditions it believes are best designed for the youth's welfare.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 12, 2006.

TRD-200605574

Dwight Harris
Executive Director
Texas Youth Commission
Effective date: November 1, 2006
Proposal publication date: September 1, 2006
For further information, please call: (512) 424-6014



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 9. MENTAL RETARDATION SERVICES--MEDICAID STATE OPERATING AGENCY RESPONSIBILITIES

SUBCHAPTER D. HOME AND COMMUNITY-BASED SERVICES (HCS) PROGRAM

40 TAC §9.178

The Health and Human Services Commission (HHSC), on behalf of the Department of Aging and Disability Services (DADS), adopts an amendment to §9.178 in Chapter 9, Subchapter D, governing the Home and Community-based Services (HCS) Program, without changes to the proposed text published in the August 18, 2006, issue of the *Texas Register* (31 TexReg 6502).

The amendment is adopted to restore the correct text to subsection (v)(1) - (3), which was inadvertently replaced with incorrect text during a previous adoption of an amendment to the section. The subsection governs an HCS Program provider's responsibilities concerning implementation of behavior management techniques involving restriction of individual rights or intrusive techniques.

DADS received no comments regarding adoption of the amendment.

The amendment is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; and Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 11, 2006.

TRD-200605560

Kenneth L. Owens
General Counsel
Department of Aging and Disability Services
Effective date: November 1, 2006
Proposal publication date: August 18, 2006
For further information, please call: (512) 438-3734



REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

The Texas Department of Insurance, Division of Workers' Compensation files this notice of intention to review the rules contained in Chapter 65 concerning Unethical or Fraudulent Claims Practices. This review is pursuant to the General Appropriations Act, Article IX, §167, 75th Legislature, the General Appropriations Act, Section 9-10, 76th Legislature, and Texas Government Code §2001.039 as added by SB-178, 76th Legislature.

The Division's reason for adopting the following rules contained in this chapter continues to exist and it proposes to readopt these rules:

§65.5. Practicing before the Board.

§65.10. Action by Carrier, Claimant's Attorney, and/or Agent.

§65.15. Filing of Violation Report.

Comments regarding whether the reason for adopting these rules continues to exist must be received by 5:00 p.m. on November 27, 2006 and submitted to Victoria Ortega, Legal and Compliance, Texas Department of Insurance, Division of Workers' Compensation, 7551 Metro Center Drive, Suite 100, MS-4D, Austin, Texas 78744-1609.

TRD-200605617

Norma Garcia

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: October 16, 2006



The Texas Department of Insurance, Division of Workers' Compensation files this notice of intention to review the rules contained in Chapter 69 concerning Medical Examination Orders. This review is pursuant to

the General Appropriations Act, Article IX, §167, 75th Legislature, the General Appropriations Act, Section 9-10, 76th Legislature, and Texas Government Code §2001.039 as added by SB-178, 76th Legislature.

The Division's reason for adopting the following rules contained in this chapter continues to exist and it proposes to readopt these rules:

§69.5. Application of Chapter.

§69.10. Definitions.

§69.15. Carrier May Apply for Order from Board.

§69.25. Bases for Denial.

§69.30. Appeal.

§69.33. Claimant's Medical Records.

§69.35. Claimant's Expenses.

§69.40. Attendance of Claimant's Health Care Provider.

§69.45. Unreasonable Delay.

§69.50. Reports of Examinations.

§69.55. Failure To Attend Examination.

Comments regarding whether the reason for adopting these rules continues to exist must be received by 5:00 p.m. on November 27, 2006 and submitted to Victoria Ortega, Legal and Compliance, Texas Department of Insurance, Division of Workers' Compensation, 7551 Metro Center Drive, Suite 100, MS-4D, Austin, Texas 78744-1609.

TRD-200605618

Norma Garcia

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: October 16, 2006



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure 1: 16 TAC Chapter 2 - Preamble

| | | Cost per Employee for | | | |
|--|---------------------|-----------------------|----------------|----------------|----------------|
| For a complaint involving: | Complainant's Costs | Sole Proprietorship | Micro-Business | Small Business | Large Business |
| No travel; no outside mediator | \$ 220.00 | \$ 220.00 | \$ 73.33 | \$ 4.40 | \$0.22 |
| Travel; no outside mediator | \$ 720.00 | \$ 720.00 | \$ 240.00 | \$ 14.40 | \$0.72 |
| Travel; outside mediator | \$1,320.00 | \$1,320.00 | \$ 440.00 | \$ 26.40 | \$1.32 |
| Travel; outside mediator; attorney or consultant | \$9,320.00 | \$9,320.00 | \$3,106.67 | \$186.40 | \$9.32 |

Figure 2: 16 TAC Chapter 2 - Preamble

| | | Cost per Employee for | | | |
|--|--------------------|-----------------------|----------------|----------------|----------------|
| For a complaint involving: | Respondent's Costs | Sole Proprietorship | Micro-Business | Small Business | Large Business |
| No travel; no outside mediator | \$ 836.00 | \$ 836.00 | \$ 278.67 | \$ 16.72 | \$0.84 |
| Travel; no outside mediator | \$1,336.00 | \$1,336.00 | \$ 445.33 | \$ 26.72 | \$1.34 |
| Travel; outside mediator | \$1,936.00 | \$1,936.00 | \$ 645.33 | \$ 38.72 | \$1.94 |
| Travel; outside mediator; attorney or consultant | \$9,936.00 | \$9,936.00 | \$3,312.00 | \$198.72 | \$9.94 |

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas State Affordable Housing Corporation

2007 Multifamily Private Activity Bond Program Proposed Guidelines

The Texas State Affordable Housing Corporation proposes its 2007 Multifamily Private Activity Bond Program Guidelines. The Corporation issues tax-exempt private activity bonds to finance multifamily affordable housing in the state of Texas under the authority granted to it under Government Code Title 10, Chapter 2306, Subchapter Y.

Written Comments on the proposal may be sent to Katherine Closmann, Executive Vice President, 1005 Congress Ave, Suite 500, Austin, Texas 78701. For further information please contact Ms. Closmann at (512) 477-3555 ext. 424. The proposed guidelines may be viewed on the Corporation's website at www.tsahc.org. Comments will be accepted through Thursday, November 9, 2006.

TRD-200605634

David Long

President

Texas State Affordable Housing Corporation

Filed: October 17, 2006



Department of Aging and Disability Services

Notice - Procurement of Services by Area Agencies on Aging

The Department of Aging and Disability Services' Access and Intake - Area Agencies on Aging Section oversees the delivery of Older Americans Act services for individuals age 60 and older, their family members, and other caregivers through contracts with Area Agencies on Aging located throughout the state. These 28 Area Agencies on Aging are currently seeking qualified entities to provide services such as: Congregate Meals, Home Delivered Meals, Transportation, Personal Assistance, Homemaker, and Caregiver as well as other related services. Parties interested in providing services must contact the Area Agency on Aging operating within their service area to obtain information relating to vendor open enrollment, requests for proposals (RFP), the contracting process, the types of services being considered, and the actual funding available.

Identified in the comprehensive list are all Area Agencies on Aging, contract information, addresses, telephone numbers, and service areas:

List of Area Agencies on Aging

Area Agencies on Aging

10/18/2006

83101-Alamo Area Agency on Aging

8700 Tesoro, Suite 700; San Antonio, Texas 78217

8700 Tesoro, Suite 700; San Antonio, Texas 78217

Ph: 210-362-5200 1-866-231-4922 Fax: 210-225-5937

AAA Director:

Ms. Deborah Billa, Director

dbilla@aacog.com

Alamo Area Council of Governments

Mr. Al J. Notzon, III, Executive Director

anotzon@aacog.com

8700 Tesoro, Suite 700 Zip: 78217

Fiscal Director:

Blanca Tapia

btapia@aacog.com

Fiscal Contact:

Amy Guerra

aguerra@aacog.com

Counties Served: Atascoca, Bandera, Comal, Frio, Gillespie, Guadalupe; Karnes, Kendall, Kerr, Medina, Wilson

83102-Ark-Tex Area Agency on Aging

122 Plaza West; Texarkana, Texas 75501

P. O. Box 5307; Texarkana, Texas 75505-5307

Ph: 903-832-8636 1-800-372-4464 Fax: 903-832-3441

AAA Director:

Ms Judy Mattson, Director

jmattson@atcog.org

Ark-Tex Council of Governments

Mr. L.D. Williamson, Executive Director

ldwilliamson@atcog.org

P. O. Box 5307 Zip: 75505-5307

Fiscal Director:

Brenda Davis

bdavis@atcog.org

Fiscal Contact:

Debra Newton

dnewton@atcog.org

Counties Served: Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, Titus

83103-Bexar County Area Agency on Aging

8700 Tesoro, Suite 700; San Antonio, Texas 78217

8700 Tesoro, Suite 700; San Antonio, Texas 78217

Ph: 210-362-5268 1-800-960-5201 Fax: 210-225-5937

AAA Director:

Ms. Carol Zernial, Director

czernial@aacog.com

Alamo Area Council of Governments

Mr. Al J. Notzon, III, Executive Director

a.notzon@aacog.com

8700 Tesoro, Suite 700 Zip: 78217

Fiscal Director:

Blanca Tapia

btapia@aacog.com

Fiscal Contact:

Amy Guerra

aguerra@aacog.com

Counties Served: Bexar

83104-Brazos Valley Area Agency on Aging

3991 E. 29th; Bryan, Texas 77802

P. O. Box 4128; Bryan, Texas 77805-4128

Ph: 979-595-2806 1-800-994-4000 Fax: 979-595-2810

AAA Director:

Mr. Ronnie Gipson, Director

rgipson@bvcog.org

Brazos Valley Council of Governments

Mr. Tom M. Wilkinson, Jr., Executive Direc

twilkinson@bvcog.org

P. O. Box 4128 Zip: 77805-4128

Fiscal Director:

John Jackson

jjackson@bvcog.org

Fiscal Contact:

Kay Wilson

kwilson@bvcog.org

Counties Served: Brazos, Burleson, Grimes, Leon, Madison, Robertson, Washington

Area Agencies on Aging

10/18/2006

83105-Capital Area Agency on Aging

2512 South IH35, Suite 340; Austin, Texas 78704-5798

2512 South IH35, Suite 340; Austin, Texas 78704-5798

Ph: 512-916-6062 1-888-622-9111 Fax: 512-916-6042

AAA Director:

Ms. Glenda Rogers, Director

grogers@capcog.org

Capital Area Council of Governments

Ms. Betty Voights, Executive Director

bvoights@capcog.org

2512 South IH35, Suite 200 Zip: 78704-5798

Fiscal Director:

Clay Collins

ccollins@capcog.org

Fiscal Contact:

Michael Weddell

mjweddell@capcog.org

Counties Served: Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano, Travis, Williamson

83106-Central Texas Area Agency on Aging

2180 North Main Street; Belton, Texas 76513

P.O. Box 729; Belton, Texas 76513

Ph: 254-770-2330 1-800-447-7169 Fax: 252-770-2227

AAA Director:

Mr. H. Richard McGhee, Director

dir14@centexaaa.com

Central Texas Council of Governments

Mr. Jim Reed, Executive Director

jreed@ctcog.org

P. O. Box 729 Zip: 76513

Fiscal Director:

Michael Irvine

mirvine@ctcog.org

Fiscal Contact:

Richard McGhee

dir14@centexaaa.com

Counties Served: Bell, Coryell, Hamilton, Lampasas, Milam, Mills, San Saba

83107-Coastal Bend Area Agency on Aging

2910 Leopard; Corpus Christi, Texas 78649

P. O. Box 9909; Corpus Christi, Texas 78469

Ph: 361-883-3935 1-800-817-5743 Fax: 361-883-5749

AAA Director:

Ms. Betty Lamb, Director

betty@cbcog98.org

Coastal Bend Council of Governments

Mr. John P. Buckner, Executive Director

john@cbcog98.org

P. O. Box 9909 Zip: 78649

Fiscal Director:

Veronica Toomey

veronica@cbcog98.org

Fiscal Contact:

Thaisy Collins

Counties Served: Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, Refugio, San Patricio

83108-Concho Valley Area Agency on Aging

2800 W. Loop 306, Suite A; San Angelo, Texas 76904

P. O. Box 60050; San Angelo, Texas 76906

Ph: 325-223-5704 1-877-944-9666 Fax: 325-223-8233

AAA Director:

Ms. Rosie Quintela, Director

rosie@cvcog.org

Concho Valley Council of Governments

Mr. Jeffrey K. Sutton, Executive Director

jsutton@cvcog.org

P. O. Box 60050 Zip: 76906

Fiscal Director:

Norma Cummings

norma@cvcog.org

Fiscal Contact:

Rosie Quintella

rosie@cvcog.org

Counties Served: Coke, Concho, Crockett, Irion, Kimble, Mason, McCulloch, Menard, Reagan, Schleicher, Sterling, Sutton, Tom Green

Area Agencies on Aging

10/18/2006

83109-Dallas County Area Agency on Aging

1349 Empire Central, Suite 400; Dallas, Texas 75247

1349 Empire Central, Suite 400; Dallas, Texas 75247

Ph: 214-871-5065 1-800-548-1873 Fax: 214-871-7442

AAA Director:

Ms. Monita McGhee, Director

mmcghee@ccgd.org

Community Council of Greater Dallas

Ms. Martha Blaine, Executive Director

mblaine@ccgd.org

1349 Empire Central, Ste. 400 Zip: 75247

Counties Served: Dallas

Fiscal Director:

Vicki White

vwhite@ccgd.org

Fiscal Contact:

Dena Boyd

dboyd@ccgd.org

83110-Deep East Texas Area Agency on Aging

210 Premier Drive; Jasper, Texas 75951

210 Premier Drive; Jasper, Texas 75951

Ph: 409-384-7614 1-800-435-3377 Fax: 409-384-6177 409-384-5390

AAA Director:

Ms. Holly Anderson, Director

handerson@detcog.org

Deep East Texas Council of Governments

Mr. Walter Diggles, Executive Director

wdiggles@detcog.org

210 Premier Drive Zip: 75951

Counties Served: Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler

Fiscal Director:

Patricia DuBose

pdubose@detcog.org

Fiscal Contact:

Holly Anderson

83111-East Texas Area Agency on Aging

3800 Stone Road; Kilgore, Texas 75662

3800 Stone Road; Kilgore, Texas 75662

Ph: 903-984-8641 1-800-442-8845 Fax: 903-984-4482

AAA Director:

Mr. Claude I. Andrews, Director

Claude.Andrews@twc.state.tx.us

East Texas Council of Governments

Mr. Glynn Knight, Executive Director

glynn.knight@etcog.org

3800 Stone Road Zip: 75662

Counties Served: Anderson, Camp, Cherokee, Gregg, Harrison, Henderson, Marion, Panola, Rains, Rusk, Smith, Upshur, VanZandt, Wood

Fiscal Director:

Judy Durland

judy.durland@twc.state.tx.us

Fiscal Contact:

Beverly Brown

beverly.brown3@twc.state.tx.us

83112-Golden Crescent Area Agency on Aging

568 Big Bend Drive; Victoria, Texas 77904

568 Big Bend Drive; Victoria, Texas 77904

Ph: 361-578-1587 1-800-574-9745 Fax: 361-578-8865

AAA Director:

Ms. Cindy Cornish, Director

cindyco@gcrpc.org

Golden Crescent Regional Planning Commission

Mr. Joe E. Brannan, Executive Director

jbrannan@gcrpc.org

568 Big Bend Drive Zip: 77904

Counties Served: Calhoun, DeWitt, Goliad, Gonzales, Jackson, Lavaca, Victoria

Fiscal Director:

Cynthia Skarpa

cindys@gcrpc.org

Fiscal Contact:

Cynthia Skarpa

cindys@gcrpc.org

Area Agencies on Aging

10/18/2006

83113-Harris County Area Agency on Aging

8000 North Stadium Drive, 3rd. Floor; Houston, Texas 77054

8000 North Stadium Drive, 3rd. Floor; Houston, Texas 77054

Ph: 713-794-9001 1-800-213-8471 Fax: 713-794-9238

AAA Director:

Ms. Charlene Hunter-James, Director

charlene.james@cityofhouston.net

City of Houston

Stephen Williams, Director

stephen.williams@cityofhouston.net

8000 North Stadium Drive, 3rd. Floor Zip: 77054

Counties Served: Harris

Fiscal Director:

Sally Switek

sally.switek@cityofhouston.net

Fiscal Contact:

Sally Switek

sally.switek@cityofhouston.net

83114-Heart of Texas Area Agency on Aging

1514 S. New Road; Waco, Texas 76711

PO Box 20847; Waco, Texas 76712

Ph: 254-292-1800 1-866-772-9600 Fax: 254-756-0102

AAA Director:

Mr. Gary Luft, Director

gary.luft@hot.cog.tx.us

Heart of Texas Council of Governments

Kenneth L. Simons, Executive Director

ken.simons@hot.cog.tx.us

PO Box 20847 Zip: 76712

Counties Served: Bosque, Falls, Freestone, Hill, Limestone, McLennan

Fiscal Director:

John Minnix

john.minnix@hot.cog.tx.us

Fiscal Contact:

Donnis Cowan

83115-Houston - Galveston Area Agency on Aging

3555 Timmons Ln., Suite 120; Houston, Texas 77027

P. O. Box 22777; Houston, Texas 77227-2777

Ph: 713-627-3200 1-800-437-7396 Fax: 713-993-4578

AAA Director:

Mr. Curtis M. Cooper, Manager

curtis.cooper@h-gac.com

Houston-Galveston Area Council

Mr. Jack Steele, Executive Director

jack.steele@h-gac.com

P. O. Box 22777 Zip: 77227

Counties Served: Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Liberty, Matagorda, Montgomery, Walker, Waller, Wharton

Fiscal Director:

Nancy Haussler

nancy.haussler@h-gac.com

Fiscal Contact:

Shaun Downie

83116-Lower Rio Grande Valley Area Agency on Aging

311 N. 15th Street; McAllen, Texas 78501-4705

311 N. 15th Street; McAllen, Texas 78501-4705

Ph: 956-682-3481 1-800-365-6131 Fax: 956-682-8852

AAA Director:

Mr. Jose L. Gonzalez, Director

jgonzalez@lrgvdc.org

Lower Rio Grande Valley Development Council

Mr. Kenneth N. Jones, Executive Director

knjones@lrgvdc.org

311 N. 15th Street Zip: 78501-4705

Counties Served: Cameron, Hidalgo, Willacy

Fiscal Director:

Ann Lyles

lyles@acnet.net

Fiscal Contact:

Crystal Balboa

cbalboa@lrgvdc.org

Area Agencies on Aging

10/18/2006

83117-Middle Rio Grande Area Agency on Aging

307 W. Nopal Street; Carrizo Springs, Texas 78834

P. O. Box 1199; Carrizo Springs, Texas 78834

Ph: 830-876-3533 1-800-224-4262 Fax: 830-876-9415

AAA Director:

Ms. Gloria Perez, Director

Gloria.Perez@mrgdc.org

Middle Rio Grande Development Council

Mr. Leodoro Martinez, Executive Director

leodoro.martinez@mrgdc.org

P. O. Box 1199 Zip: 78834

Fiscal Director:

Joe D. Cruz, Jr.

joe.cruz@mrgdc.org

Fiscal Contact:

Pete Perez

Counties Served: Dimmit, Edwards, Kinney, LaSalle, Maverick, Real, Uvalde, Val Verde, Zavala

83118-North Central Texas Area Agency on Aging

616 Six Flags Drive, Suite 200; Arlington, Texas 76011

P. O. Box 5888; Arlington, Texas 76005-5888

Ph: 817-695-9194 1-800-272-3921 Fax: 817-695-9274

AAA Director:

Ms. Doni Van Ryswyk, Manager

dvanryswyk@nctcog.org

North Central Texas Council of Governments

Mr. Mike Eastland, Executive Director

meastland@nctcog.org

P. O. Box 5888 Zip: 76005-5888

Fiscal Director:

Amber Meadows

ameadows@nctcog.org

Fiscal Contact:

Amber Meadows

Counties Served: Collin, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Wise

83119-North Texas Area Agency on Aging

4309 Jacksboro Hwy., Suite 2; Wichita Falls, Texas 76302-2745

P. O. Box 5144; Wichita Falls, Texas 76307-5144

Ph: 940-322-5281 1-800-460-2226 Fax: 940-322-6743

AAA Director:

Ms. Rhonda K. Pogue, Director

rpogue@nortextrpc.org

Nortex Regional Planning Commission

Mr. Dennis Wilde, Executive Director

dwilde@nortextrpc.org

P. O. Box 5144 Zip: 76307-5144

Fiscal Director:

Joyce Reynolds

jreynolds@nortextrpc.org

Fiscal Contact:

Joyce Reynolds

Counties Served: Archer, Baylor, Clay, Cottle, Foard, Hardeman, Jack, Montague, Wichita, Wilbarger, Young

83120-Panhandle Area Agency on Aging

415 West 8th; Amarillo, Texas 79101

P. O. Box 9257; Amarillo, Texas 79105-9257

Ph: 806-331-2227 1-800-642-6008 Fax: 806-373-3268

AAA Director:

Ms. Melissa Carter, Director

mcarter@prpc.cog.tx.us

Panhandle Regional Planning Commission

Mr. Gary Pitner, Executive Director

gpitner@theprpc.org

P. O. Box 9257 Zip: 79105-9257

Fiscal Director:

Cindy Boone

cboone@theprpc.org

Fiscal Contact:

Christy Henderson

chenderson@theprpc.org

Counties Served: Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham,

Area Agencies on Aging

10/18/2006

83121-Permian Basin Area Agency on Aging

2910 Laforce Blvd.; Midland, Texas 79711

P.O. Box 60660; Midland, Texas 79711

Ph: 432-563-1061 1-800-491-4636 Fax: 432-563-1009

AAA Director:

Ms. Sue Fielder, Director

sfielder@aaapb.com

Permian Basin Regional Planning Commission

Mr. Gary Gaston, Executive Director

ggaston@pbrpc.org

P. O. Box 60660 Zip: 79711

Fiscal Director:

Helen Grady

heleng@pbrpc.org

Fiscal Contact:

Helen Grady

Counties Served: Andrews, Borden, Crane, Dawson, Ector, Gaines, Glasscock, Howard, Loving, Martin, Midland, Pecos, Reeves, Terrell, Upton, Ward, Winkler

83122-Rio Grande Area Agency on Aging

1100 North Stanton, Suite 610; El Paso, Texas 79902

1100 North Stanton, Suite 610; El Paso, Texas 79902

Ph: 915-533-0998 1-800-333-7082 Fax: 915-544-5402

AAA Director:

Mr. Adan Dominguez, Director

adand@riocog.org

Rio Grande Council of Governments

Mr. Jake Brisbin, Jr., Executive Director

jakeb@riocog.org

1100 North Stanton, Suite 610 Zip: 79902

Fiscal Director:

Hector F. Diaz

hectord@riocog.org

Fiscal Contact:

Lorena Estrada

Counties Served: Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Presidio

83123-Southeast Texas Area Agency on Aging

2210 Eastex Freeway; Beaumont, Texas 77703

2210 Eastex Freeway; Beaumont, Texas 77703

Ph: 409-899-8444 1-800-395-5465 Fax: 409-899-4829

AAA Director:

Ms. Colleen Halliburton, Director

challiburton@setrpc.org

South East Texas Regional Planning Commission

Mr. Chester R. Jourdan, Jr., Executive Direc

cjourdan@setrpc.org

2210 Eastex Freeway Zip: 77703

Fiscal Director:

Jim Borel

jborel@setrpc.org

Fiscal Contact:

Teri Barnes

tbarnes@setrpc.org

Counties Served: Hardin, Jefferson, Orange

83124-South Plains Area Agency on Aging

1323 58th Street; Lubbock, Texas 79412

P. O. Box 3730 / Freedom Station; Lubbock, Texas 79452

Ph: 806-687-0940 1-888-418-6564 Fax: 806-765-9544

AAA Director:

Mr. Pete H. Lara, Director

plara@spag.org

South Plains Association of Governments

Mr. Tim C. Pierce, Executive Director

tpierce@spag.org

P. O. Box 3730 / Freedom Station Zip: 79452

Fiscal Director:

Sue Barron

sbarron@spag.org

Fiscal Contact:

Rodrigo Moyshondt

rodrigo@spag.org

Counties Served: Bailey, Cochran, Crosby, Dickens, Floyd, Garza, Hale, Hockley, King, Lamb, Lubbock, Lynn, Motley, Terry, Yoakum

Area Agencies on Aging

10/18/2006

83125-South Texas Area Agency on Aging

1002 Dicky Lane; Laredo, Texas 78043
P.O. Box 2187; Laredo, Texas 78044-2187

Ph: 956-722-3995 1-800-292-5426 Fax: 956-722-2670

AAA Director:

Mr. Alberto Rivera, Jr., Aging Services
arivera@stdc.cog.tx.us

South Texas Development Council

Mr. Amando Garza, Jr., Executive Director
agarzajr@stdc.cog.tx.us

P.O. Box 2187 Zip: 78044-2187

Counties Served: Jim Hogg, Starr, Webb, Zapata

Fiscal Director:

Robert Mendiola
mendiola@stdc.cog.tx.us

Fiscal Contact:

Robert Mendiola

83126-Tarrant County Area Agency on Aging

210 East Ninth Street; Fort Worth, Texas 76102
210 East Ninth Street; Fort Worth, Texas 76102

Ph: 817-258-8081 1-877-886-4833 Fax: 817-258-8097

AAA Director:

Mr. Don Smith, Director
dsmith@uwmtc.org

United Way Metropolitan Tarrant County

Ms. Ann Rice, Senior Vice President
arice@uwmtc.org

210 East Ninth Street Zip: 76102

Counties Served: Tarrant

Fiscal Director:

Mitch Leach
mleach@uwmtc.org

Fiscal Contact:

Kate Perry
kperry@uwmtc.org

83127-Texoma Area Agency on Aging

1117 Gallagher, Gallagher Bldg., Suite 200; Sherman, Texas 75090
1117 Gallagher, Gallagher Bldg., Suite 200; Sherman, Texas 75090

Ph: 903-813-3580 1-800-677-8264 Fax: 903-813-3515

AAA Director:

Ms. Janis Thompson, Director
jthompson@texoma.cog.tx.us

Texoma Council of Governments

Mrs. Frances Pelley, Executive Director
fpelley@texoma.cog.tx.us

1117 Gallagher, Gallagher Prof. Bldg, Suite 200 Zip: 75090

Counties Served: Cooke, Fannin, Grayson

Fiscal Director:

Terrell Culbertson
tculbertson@texoma.cog.tx.us

Fiscal Contact:

Terrell Culbertson

83128-West Central Texas Area Agency on Aging

841 N. Judge Ely Blvd.; Abilene, Texas 79601
P. O. Box 3195; Abilene, Texas 79604

Ph: 325-672-8544 1-800-928-2262 Fax: 325-675-5214

AAA Director:

Ms. Gail Kaiser, Director
gkaiser@wctcog.org

West Central Texas Council of Governments

Mr. James K. Compton, Executive Director
jcompton@wctcog.org

P. O. Box 3195 Zip: 79604

Counties Served: Brown, Callahan, Coleman, Comanche, Eastland, Fisher, Haskell, Jones, Kent, Knox, Mitchell, Nolan, Runnels, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton

Fiscal Director:

Christy Marlar
cmarlar@wctcog.org

Fiscal Contact:

Christy Marlar

Contact the Department of Aging and Disability Services, Access and Intake - Area Agencies on Aging Section at (512) 438-4290 for questions about this general notice.

TRD-200605675

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Filed: October 18, 2006



Brazos Valley Council of Governments

Notice of Release of Request for Quotes for Radio Advertising Services

On October 16, 2006, the Brazos Valley Council of Governments (BVCOG) and Workforce Solutions Brazos Valley Board (WSBVB) will release a Request for Quotes (RFQ) for Radio Advertising Services. An experienced provider of radio advertising services is needed to develop, produce, manage, and implement radio advertising under WSBVB guidance for the Brazos Valley region (Brazos, Washington, Robertson, Burleson, Madison, Leon, and Grimes counties). Workforce Solutions Brazos Valley Board will receive responses to the RFQ until 4:00 P.M., CST, November 9, 2006. No responses will be accepted after this deadline. Potential respondents may view and print the RFQ from the web at www.bvjobs.org. The contact person for this RFQ is Anne McKibben, amckibben@bvcog.org, (979) 595-2800.

TRD-200605578

Tom Wilkinson

Executive Director

Brazos Valley Council of Governments

Filed: October 13, 2006



Texas Building and Procurement Commission

Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Family and Protective Services, announces the issuance of Request for Proposals (RFP) #303-7-10493. TBPC seeks a five (5) year lease of approximately 4,085 square feet of office space in Laredo, Webb County, Texas.

The deadline for questions is November 6, 2006 and the deadline for proposals is November 17, 2006 at 3:00 P.M. The award date is December 1, 2006. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=67607.

TRD-200605659

Ingrid K. Hansen

General Counsel

Texas Building and Procurement Commission

Filed: October 17, 2006



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Office of the Attorney General (OAG), announces the issuance of Request for Proposals (RFP) #303-7-10495. TBPC seeks a five (5) year lease of approximately 5,558 square feet of office space in Austin, Travis County, Texas.

The deadline for questions is November 1, 2006; and the deadline for proposals is November 10, 2006 at 3:00 P.M. The award date is December 1, 2006. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/1380/bid_show.cfm?bidid=67559.

TRD-200605606

Ingrid K. Hansen

General Counsel

Texas Building and Procurement Commission

Filed: October 16, 2006



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Family and Protective Services, announces the issuance of Request for Proposals (RFP) #303-7-10455. TBPC seeks a five (5) year lease of approximately 17,412 square feet of office space in San Antonio, Bexar County, Texas.

The deadline for questions is November 6, 2006, and the deadline for proposals is November 20, 2006, at 3:00 p.m. The award date is December 15, 2006. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC's Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=67601.

TRD-200605620

Ingrid K. Hansen

General Counsel

Texas Building and Procurement Commission

Filed: October 16, 2006



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Family and Protective Services, announces the issuance of Request for Proposals (RFP) #303-7-10456. TBPC seeks a five (5) year lease of approximately 17,554 square feet of office space in San Antonio, Bexar County, Texas.

The deadline for questions is November 6, 2006 and the deadline for proposals is November 20, 2006 at 3:00 P.M. The award date is December 15, 2006. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP.

Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=67605.

TRD-200605661

Ingrid K. Hansen
General Counsel

Texas Building and Procurement Commission
Filed: October 17, 2006



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Office of the Attorney General (OAG), announces the issuance of Request for Proposals (RFP) #303-7-10496. TBPC seeks a five (5) year lease of approximately 10,492 square feet of office space in San Antonio, Bexar County, Texas.

The deadline for questions is November 6, 2006 and the deadline for proposals is November 16, 2006 at 3:00 P.M. The award date is December 1, 2006. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=67610.

TRD-200605668

Ingrid K. Hansen
General Counsel

Texas Building and Procurement Commission
Filed: October 18, 2006



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Assistive and Rehabilitative Services, announces the issuance of Request for Proposals (RFP) #303-7-10514. TBPC seeks a five (5) year lease of approximately 6,319 square feet of office space in Austin, Travis County, Texas.

The deadline for questions is November 2, 2006 and the deadline for proposals is November 14, 2006 at 3:00 P.M. The award date is December 1, 2006. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=67625.

TRD-200605670

Ingrid K. Hansen
General Counsel

Texas Building and Procurement Commission
Filed: October 18, 2006



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Texas Department of Criminal Justice, announces the issuance of Request for Proposals (RFP) #303-6-11241-A. TBPC seeks a five (5) year lease of approximately 2,906 square feet of office space in Liberty, Liberty County, Texas.

The deadline for questions is November 2, 2006 and the deadline for proposals is November 14, 2006 at 3:00 P.M. The award date is December 1, 2006. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=67580.

TRD-200605672

Ingrid K. Hansen
General Counsel

Texas Building and Procurement Commission
Filed: October 18, 2006



Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of October 6, 2006, through October 12, 2006. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period for these activities extends 30 days from the date published on the Coastal Coordination Council web site. The notice was published on the web site on October 18, 2006. The public comment period for these projects will close at 5:00 p.m. on November 17, 2006.

FEDERAL AGENCY ACTIONS:

Applicant: Martin Marine Shipyard; Location: The project is located on the Sabine-Neches Waterway, at the Martin Marine Shipyard Facility, at 7680 South 1st Street, in Sabine Pass, Jefferson County, Texas. The project can be located on 15; Easting: 416299; Northing: 3288122. Project Description: The applicant proposes to expand the existing facility to include a floating dry dock, a barge dry dock, and to modify the channel barge berthing areas. The applicant proposes to mechanically excavate 19,523 cubic yards of material from a 1.706-acre area. The floating dry dock area will be excavated to -18.6 feet mean

low tide (MLT), the barge dry dock will be excavated on a slope from -2.6 feet to -8.6 feet MLT, and barge berthing area will be excavated to -8.6 feet MLT. The material will be placed in an upland disposal area.

The barge dry dock improvements involve the installation of two pre-cast 180-foot-long concrete rails. The rails will impact 0.075 acre of open water. A 150-foot-long portion of the shoreline along the barge dry dock area will be armored with riprap to prevent erosion. The riprap will impact 0.011 acre of open water. In addition, the applicant proposes to construct a 695-foot bulkhead along the shoreline. Approximately 440 cubic yards of material will be used as backfill for the bulkhead impacting 0.091 acre of open water. CCC Project No.: 06-0418-F1; Type of Application: U.S.A.C.E. permit application #24281 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act.

Applicant: Ballard Exploration Company, Inc.; Location: The project is located within Sabine Lake, approximately 4.3 miles south-east of Port Arthur, in Jefferson County, Texas and Cameron Parish, Louisiana. The project can be located on the U.S.G.S. quadrangle map entitled: West of Johnsons Bayou, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 417915; Northing: 3305207. Project Description: The applicant proposes to install two (6-inch diameter) flowlines with a 20-foot by 20-foot heater platform structure to serve the MF 102080 Well No. 001 (ref Permit 24089). The flowlines will begin at the existing MF 102080 Well No. 001 and run 100 feet to the proposed heater platform, and then will travel approximately 25,550 feet to an existing production facility. The proposed flowlines will be jetted (using divers) and trenched to a minimum of 3.0 feet below the existing mudline, and will not decrease water depths by more than 0.5 feet. Propwashing will not be required for the installation of these lines. The water depths range from 8 feet to 9 feet.

An oyster survey has been conducted for the project area as required by the State of Louisiana (Sabine Lake is considered a Public Oyster Area in Louisiana). The oyster report has been initially reviewed and approved by U.S Army Corps of Engineers (Corps), and is available from the permit agent. An estimated 3,801 cubic yards of material will be discharged through trenching activities, with 0.58 acre of water bottom temporarily impacted by the trenching operations. CCC Project No.: 07-0011-F1; Type of Application: U.S.A.C.E. permit application #24089(01) is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403). Note: The consistency review for this project may be conducted by the Railroad Commission of Texas under §401 of the Clean Water Act (33 U.S.C.A. §1344).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action is or is not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Coastal Coordination Council for review.

Further information on the applications listed above may be obtained from Ms. Tammy Brooks, Consistency Review Coordinator, Coastal Coordination Council, P.O. Box 12873, Austin, Texas 78711-2873, or tammy.brooks@glo.state.tx.us. Comments should be sent to Ms. Brooks at the above address or by fax at (512) 475-0680.

TRD-200605662

Larry L. Laine

Chief Clerk/Deputy Land Commissioner, General Land Office

Coastal Coordination Council

Filed: October 18, 2006



Public Meeting Notice--Coastal Management Program

The National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, is required to review and evaluate the management and implementation of the Texas Coastal Management Program (CMP) pursuant to §312 of the Coastal Zone Management Act of 1972, as amended. NOAA will host a public meeting as part of its §312 triennial review on Tuesday, December 5, 2006. The public is invited to comment on the CMP during the meeting beginning at 5:30 p.m. at Club Padre, 5800 Padre Boulevard, South Padre Island, Texas.

Written comments are encouraged and may be submitted in lieu of oral comments. Attendance at the public meeting is not necessary to submit written comments. Written comments should be sent by U.S. mail to L. Christine McCay, Office of Ocean and Coastal Resource Management, NOAA's National Ocean Service, N/ORM7, 1305 East West Highway, SSMC4, Silver Spring, Maryland 20910; by facsimile transmission to (301) 713-4370; or by e-mail to chris.mccay@noaa.gov, no later than 5:00 p.m. December 22, 2006.

For more information please call Christine McCay, NOAA, at (301) 713-3155, ext. 163, or Debbie Danford, Coastal Coordination Council at (512) 463-4228.

TRD-200605665

Larry L. Laine

Chief Clerk/Deputy Land Commissioner, General Land Office

Coastal Coordination Council

Filed: October 18, 2006



Public Meeting Notice--Coastal Management Program

The National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, is required to review and evaluate the management and implementation of the Texas Coastal Management Program (CMP) pursuant to §312 of the Coastal Zone Management Act of 1972, as amended. NOAA will host a public meeting as part of its §312 triennial review on Thursday, December 7, 2006. The public is invited to comment on the CMP during the meeting beginning at 1:00 p.m. at the Stephen F. Austin Building, Room 170, 1700 North Congress Ave., Austin, Texas.

Written comments are encouraged and may be submitted in lieu of oral comments. Attendance at the public meeting is not necessary to submit written comments. Written comments should be sent by U.S. mail to L. Christine McCay, Office of Ocean and Coastal Resource Management, NOAA's National Ocean Service, N/ORM7, 1305 East West Highway, SSMC4, Silver Spring, Maryland 20910; by facsimile transmission to (301) 713-4370; or by e-mail to chris.mccay@noaa.gov, no later than 5:00 p.m. December 22, 2006.

For more information please call Christine McCay, NOAA, at (301) 713-3155, ext. 163, or Debbie Danford, Coastal Coordination Council at (512) 463-4228.

TRD-200605666

Larry L. Laine

Chief Clerk/Deputy Land Commissioner, General Land Office

Coastal Coordination Council

Filed: October 18, 2006



Comptroller of Public Accounts

Notice of Award

Pursuant to Chapter 2254, Subchapter B, Chapter 403, Texas Government Code, the Comptroller of Public Accounts (Comptroller) announces this notice of consulting contract awards in connection with the Request for Proposals (RFP #177a) for pooled consulting services to assist the Comptroller with Local Government Management Reviews of Selected Local Governments.

Comptroller announces that four (4) contracts were awarded to the following:

1. Donna Foley, CPA, 2121 Market Street, Suite 205, Galveston, Texas 77550. The total amount under all master contracts awarded is not to exceed \$100,000.00. The term of this contract is September 15, 2006 through December 31, 2007;
2. Jerry D. Williams, CPA, 20711 Henry Avenue, Lago Vista, Texas 78645. The total amount under all master contracts awarded is not to exceed \$100,000.00. The term of the contract is October 11, 2006 through December 31, 2007;
3. MGT of America, Inc., 502 East 11th Street, Suite 300, Austin, Texas 78701. The total amount under all master contracts awarded is not to exceed \$100,000.00. The term of the contract is October 11, 2006 through December 31, 2007; and
4. Evergreen Solutions, LLC, 2852 Remington Green Circle, Suite 101, Tallahassee, Florida 32308. The total amount under all master contracts awarded is not to exceed \$100,000.00. The term of the contract is October 11, 2006 through December 31, 2007.

The notice of request for proposals (RFP #177a) was published in the July 7, 2006, issue of the *Texas Register* (31 TexReg 5477). The reports are due on or before December 31, 2007.

TRD-200605652

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: October 17, 2006



Notice of Contract Renewal

Pursuant to Chapter 404, Subchapter G, and Chapter 2254, Subchapter A, Texas Government Code, the Texas Comptroller of Public Accounts, on behalf of the Texas Treasury Safekeeping Trust Company (Trust Company), wishes to announce the amendment and renewal of the contract (Contract) for professional services with Sprouse & Anderson, L.L.P. (Contractor), 515 Congress Avenue, Suite 1212, Austin, TX 78701, for an additional one-year term. The contractor provides certified public accounting services to the Trust Company.

The original term of the Contract was August 31, 2005 through August 3, 2006. This renewal extends the Contract through August 3, 2007, with one one-year renewal.

The total amount of the contract as renewed shall not exceed \$385,360.

The notice of request for proposals (RFP #172g) was originally published in the June 17, 2005, issue of the *Texas Register* (30 TexReg 3643).

TRD-200605651

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: October 17, 2006



Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/16/06 - 10/22/06 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/16/06 - 10/22/06 is 18% for Commercial over \$250,000.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

TRD-200605565

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: October 11, 2006



Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of October 23, 2006 - October 29, 2006 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of October 23, 2006 - October 29, 2006 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-200605619

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: October 16, 2006



Credit Union Department

Applications to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department and are under consideration:

An application was received from The Education Credit Union, Amarillo, Texas to expand its field of membership. The proposal would permit members of the Bushland ISD PTO Council, to be eligible for membership in the credit union.

An application was received from First Service Credit Union, Houston, Texas to expand its field of membership. The proposal would permit employees of Allied Waste Services of Houston who work in or are paid from Houston, Texas, to be eligible for membership in the credit union.

An application was received from Firstmark Credit Union, San Antonio, Texas to expand its field of membership. The proposal would permit persons who live, work, worship or attend school in and busi-

nesses located within 10 miles of Firstmark Credit Union branches at: 11530 IH-35 North, San Antonio, TX 78233 and 2023 Gold Canyon Road, San Antonio, TX 78232, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.tcred.state.tx.us/applications.html>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-200605663
Harold E. Feeney
Commissioner
Credit Union Department
Filed: October 18, 2006



Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following applications:

Applications to Expand Field of Membership - Approved

First Service Credit Union, Houston, Texas - See *Texas Register* issue, dated August 25, 2006.

Firstmark Credit Union, San Antonio, Texas - See *Texas Register* issue, dated August 25, 2006.

TRD-200605664
Harold E. Feeney
Commissioner
Credit Union Department
Filed: October 18, 2006



Texas Council for Developmental Disabilities

Correction of Error

The Texas Council for Developmental Disabilities published a notice of Request for Proposal concerning a Paratransit Services Quality and Improvement Initiative and another notice concerning a Teacher Preparation for Inclusive Education project. These notices appeared in the October 13, 2006, *Texas Register* (31 TexReg 8581).

The notices were submitted with an error. This sentence published in the second paragraph of each notice should be omitted: "TCDD reserves the right to evaluate project activities and to provide funding for an additional two years as they deem appropriate." This error appears in the notices for TRD-200605436 and TRD-200605437.

TRD-200605608



Texas Commission on Environmental Quality

Enforcement Orders

An agreed order was entered regarding Sam Lakhani dba SLR Grocery, Docket No. 2004-0806-PST-E on October 10, 2006 assessing \$2,550 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Amie Richardson, Staff Attorney, at (512) 239-2999, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hector Silva dba Chaparral Mini Mart and Petra Silva dba Chaparral Mini Mart, Docket No. 2004-1776-PST-E on October 10, 2006 assessing \$6,300 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kari Gilbreth, Staff Attorney, at (512) 239-1320, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding K. J. Plunkett Sand & Base, Inc., Docket No. 2004-1808-MLM-E on October 10, 2006 assessing \$6,540 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Curnutt, Staff Attorney, at (512) 239-0624, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Sentinel Waste, LLC, Docket No. 2005-0040-MSW-E on October 10, 2006 assessing \$11,550 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Shawn Slack, Staff Attorney, at (512) 239-0063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hung Tran dba Corner Stop Food Mart, Docket No. 2005-0141-PST-E on October 10, 2006 assessing \$1,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney, at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sabina Petrochemicals LLC, Docket No. 2005-0456-AIR-E on October 10, 2006 assessing \$33,275 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kathleen Decker, Staff Attorney, at (512) 239-6500, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Town of Windom, Docket No. 2005-0501-MWD-E on October 10, 2006 assessing \$7,110 in administrative penalties with \$1,422 deferred.

Information concerning any aspect of this order may be obtained by contacting Merrilee Hupp, Enforcement Coordinator, at (512) 239-4490, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Michael Sargeant dba Sargeant's Wholesale Biologicals, Docket No. 2005-0556-AIR-E on October 10, 2006 assessing \$6,630 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Xavier Guerra, Staff Attorney, at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding John Balstad, Docket No. 2005-0730-LII-E on October 10, 2006 assessing \$2,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney, at (512) 239-0019, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mardoche Abdelhak dba Big Trees Trailer City, Docket No. 2005-0752-PWS-E on October 10, 2006 assessing \$3,133 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Xavier Guerra, Staff Attorney, at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Santa Rosa, Docket No. 2005-0821-PWS-E on October 10, 2006 assessing \$755 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Carolyn Lind, Enforcement Coordinator, at (903) 535-5145, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Kaufman County Fresh Water Supply District No. 1A, Docket No. 2005-1116-MWD-E on October 10, 2006 assessing \$65,280 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurie Eaves, Enforcement Coordinator, at (512) 239-4495, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hydro Conduit of Texas, LP, Docket No. 2005-1131-IWD-E on October 10, 2006 assessing \$12,800 in administrative penalties with \$2,560 deferred.

Information concerning any aspect of this order may be obtained by contacting Brent Hurta, Enforcement Coordinator, at (512) 239-6589, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sonntag Materials, Inc., Docket No. 2005-1641-WQ-E on October 10, 2006 assessing \$2,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Shawn Slack, Staff Attorney, at (512) 239-0063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Brownsville Val-Marts, L.L.C. dba Pronto 9, Docket No. 2005-1679-PST-E on October 10, 2006 assessing \$2,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Robert Mosley, Staff Attorney, at (512) 239-0627, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Kauser Energy Inc. dba Kaiser Food Mart 3, Docket No. 2005-1958-PST-E on October 10, 2006 assessing \$2,460 in administrative penalties with \$492 deferred.

Information concerning any aspect of this order may be obtained by contacting Deana Holland, Enforcement Coordinator, at (512) 239-2504, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Dinesh Patel dba Benbrook Corner Store, Docket No. 2005-2033-PST-E on October 10, 2006 assessing \$5,774 in administrative penalties with \$1,155.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator, at (210) 403-4077, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Milam Investment, Inc. dba Dandy's, Docket No. 2006-0014-PST-E on October 10, 2006 assessing \$1,925 in administrative penalties with \$385 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator, at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gulf Bayport Chemicals LP, Docket No. 2006-0030-IHW-E on October 10, 2006 assessing \$2,725 in administrative penalties with \$545 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Meyer, Enforcement Coordinator, at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Weatherford, Docket No. 2006-0070-WQ-E on October 10, 2006 assessing \$8,700 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Pam Campbell, Enforcement Coordinator, at (512) 239-4493, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lucky Lady Oil Company, Docket No. 2006-0163-PST-E on October 10, 2006 assessing \$19,000 in administrative penalties with \$3,800 deferred.

Information concerning any aspect of this order may be obtained by contacting Marlin Bullard, Enforcement Coordinator, at (254) 761-3038, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hilltop Hosts, Inc. dba Mountain View Lodge, Docket No. 2006-0247-PWS-E on October 10, 2006 assessing \$600 in administrative penalties with \$120 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator, at (210) 403-4033, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding K-Solv, LP, Docket No. 2006-0273-AIR-E on October 10, 2006 assessing \$5,400 in administrative penalties with \$1,080 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Rhodes, Enforcement Coordinator, at (512) 239-2879, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Orlando Cavazos dba Bryan Park Exxon, Docket No. 2006-0343-PST-E on October 10, 2006 assessing \$4,464 in administrative penalties with \$893 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Greimel, Enforcement Coordinator, at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Shobhana Patel dba Bear Food Mart, Docket No. 2006-0358-PST-E on October 10, 2006 assessing \$3,600 in administrative penalties with \$720 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator, at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BP Products North America Inc., Docket No. 2006-0400-AIR-E on October 10, 2006 assessing \$49,300 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator, at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gentex Power Corporation, Docket No. 2006-0440-AIR-E on October 10, 2006 assessing \$2,000 in administrative penalties with \$400 deferred.

Information concerning any aspect of this order may be obtained by contacting Libby Hogue, Enforcement Coordinator, at (512) 239-1165, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Latino's Ready Mix Concrete Contractors, Inc., Docket No. 2006-0441-AIR-E on October 10, 2006 assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, Enforcement Coordinator, at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding StanTrans, Inc., Docket No. 2006-0449-AIR-E on October 10, 2006 assessing \$6,700 in administrative penalties with \$1,340 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator, at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Pinehurst, Docket No. 2006-0479-MWD-E on October 10, 2006 assessing \$6,960 in administrative penalties with \$1,392 deferred.

Information concerning any aspect of this order may be obtained by contacting Ruben Soto, Enforcement Coordinator, at (512) 239-4571, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Robin Brown dba Brazos Valley Homes, Docket No. 2006-0545-WQ-E on October 10, 2006 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Cari-Michel La Caille, Enforcement Coordinator, at (512) 239-1387, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Valero Refining-Texas, L.P., Docket No. 2006-0549-IWD-E on October 10, 2006 assessing \$38,400 in administrative penalties with \$7,680 deferred.

Information concerning any aspect of this order may be obtained by contacting Audra Ruble, Enforcement Coordinator, at (361) 825-3126, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding El Dorado Utility District, Docket No. 2006-0550-MWD-E on October 10, 2006 assessing \$8,400 in administrative penalties with \$1,680 deferred.

Information concerning any aspect of this order may be obtained by contacting Brent Hurta, Enforcement Coordinator, at (512) 239-6589, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Willie De Hoyos dba WD Septic, Docket No. 2006-0604-SLG-E on October 10, 2006 assessing \$1,800 in administrative penalties with \$360 deferred.

Information concerning any aspect of this order may be obtained by contacting Brian Lehmkuhle, Enforcement Coordinator, at (512) 239-4482, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tin Trung Tran and Tuyet Thi Pham dba T P Cleaners, Docket No. 2006-0619-DCL-E on October 10, 2006 assessing \$1,067 in administrative penalties with \$213 deferred.

Information concerning any aspect of this order may be obtained by contacting Libby Hogue, Enforcement Coordinator, at (512) 239-1165, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Peter Ritenour dba Super Cleaners Sweeny, Docket No. 2006-0633-DCL-E on October 10, 2006 assessing \$630 in administrative penalties with \$126 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator, at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding TR's Market, Inc. dba In & Out, Docket No. 2006-0637-PST-E on October 10, 2006 assessing \$875 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting David Van Soest, Enforcement Coordinator, at (512) 239-0468, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Victoria's Cleaners and Alterations Inc., Docket No. 2006-0666-DCL-E on October 10, 2006 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator, at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Duke Energy Field Services, LP, Docket No. 2006-0674-AIR-E on October 10, 2006 assessing \$12,200 in administrative penalties with \$2,440 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator, at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Longhorn Excavators, Inc., Docket No. 2006-0698-WQ-E on October 10, 2006 assessing \$900 in administrative penalties with \$180 deferred.

Information concerning any aspect of this order may be obtained by contacting Carolyn Lind, Enforcement Coordinator, at (903) 535-5145, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding R.M. Dealer-BJM, L.L.C. dba Red McCombs Toyota, Docket No. 2006-0773-EAQ-E on October 10, 2006 assessing \$1,500 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator, at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Kim Lerche dba The Looking Glass, Docket No. 2006-0808-DCL-E on October 10, 2006 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator, at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Khushi Services Inc. dba In Style Cleaners and Alterations, Docket No. 2006-0827-DCL-E on October 10, 2006 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator, at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding North Dallas Swiss Cleaners, Ltd., Docket No. 2006-0996-DCL-E on October 10, 2006 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator, at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Food Mart, Inc. dba Neighborhood Chevron, Docket No. 2006-1241-PST-E on October 10, 2006 assessing \$875 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Steven Lopez, Enforcement Coordinator, at (512) 239-1896, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Southwestern Motor Transport, Inc., Docket No. 2006-1242-WQ-E on October 10, 2006 assessing \$875 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Steven Lopez, Enforcement Coordinator, at (512) 239-1896, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Belvan Corp., Docket No. 2002-0898-AIR-E on October 10, 2006 assessing \$48,900 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Alfred Oloko, Staff Attorney, at (713) 422-8918, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Western Gas Resources, Inc., Docket No. 2006-0439-AIR-E on October 10, 2006 assessing \$52,500 in administrative penalties with \$10,500 deferred.

Information concerning any aspect of this order may be obtained by contacting Terry Murphy, Enforcement Coordinator, at (512) 239-5025, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Leta Bess Pate, Docket No. 2004-0794-SLG-E on October 10, 2006 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Limos, Enforcement Coordinator, at (512) 239-5839, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Central Transport International, Inc., Docket No. 2006-0360-WQ-E on October 10, 2006 assessing \$8,505 in administrative penalties with \$1,701 deferred.

Information concerning any aspect of this order may be obtained by contacting Brent Hurta, Enforcement Coordinator, at (512) 239-6589, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An order was entered regarding Murrill Len Baxley dba Texas Defensive Shooting Academy, Docket No. 2003-0029-MSW-E on October 11, 2006.

Information concerning any aspect of this order may be obtained by contacting Mike Meyer, Enforcement Coordinator, at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding M & C Enterprises, Inc. dba Handi Plus 25, Docket No. 2003-0029-MSW-E on October 11, 2006 assessing \$4,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator, at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200605677

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 18, 2006



Notice of District Petition

Notice mailed October 17, 2006

TCEQ Internal Control No. 08142006-D07; Dean Dale Water Supply Corporation (Petitioner) has filed a petition with the Texas Commission on Environmental Quality (TCEQ) to convert Dean Dale Water Supply Corporation to Dean Dale Special Utility District (District) and to transfer Certificate of Convenience and Necessity (CCN) No. 11049 from Dean Dale Water Supply Corporation to Dean Dale Special Utility District. Dean Dale Special Utility District's business address will be: 6741 State Hwy. 79 N; Wichita Falls, Texas 76305. The petition was filed pursuant to Chapters 13 and 65 of the Texas Water Code; 30 Texas Administrative Code Chapters 291 and 293; and the procedural rules of the TCEQ. It is anticipated that conversion will have no adverse effects on the rates and services provided to the customers. The proposed District is located in Wichita and Clay Counties and will contain approximately 77.5 square miles. The territory to be included within the proposed District includes all of the singularly certified service area covered by CCN No. 11049. CCN No. 11049 will be transferred after a positive confirmation election. The TCEQ may grant a contested case hearing on this petition if a written hearing request is filed within 30 days after the newspaper publication of this notice.

INFORMATION SECTION

To view the complete issued notices, view the notices on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on a petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed district's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

The Executive Director may approve a petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of the notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team at 1-512-239-4691. Si desea información en Español, puede llamar al 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-200605680

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 18, 2006



Notice of Water Quality Applications

The following notices were issued during the period of October 6, 2006 through October 12, 2006.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

Star Fire Port Services, Inc., which operates a coal storage, handling, and shipping facility, has applied for a renewal of TCEQ Permit No. WQ0002506000, which authorizes the disposal of storm water runoff from coal, coke, pelletized iron ore, sand, limestone, crushed rock, cement clinker, and humate stockpiles on an intermittent and flow variable basis via evaporation in two evaporation ponds with a combined storage volume capacity of 23.7 acre-feet. This permit will not authorize a discharge of pollutants into water in the State. The facility is located approximately 1,500 feet west of the Navigation Boulevard Drawbridge and north of the bulk material dock of the Port of Corpus Christi, Nueces County, Texas. The facility and evaporation ponds are

located in the drainage area of the Corpus Christi Inner Harbor in Segment No. 2484 of the Bays and Estuaries.

Seadrift Ranch Partners, LTD. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014716001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 25,000 gallons per day. The facility will be located 3,600 feet southeast of the intersection of Swan Point and Falcon Point Roads in Calhoun County, Texas. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies.

Shirley Creek Marina, Inc. has applied for a renewal of TPDES Permit No. 10947-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 5,700 gallons per day. The facility is located in Shirley Creek Park on the north shore of Sam Rayburn Reservoir and approximately 26 miles southeast of Nacogdoches in Nacogdoches County, Texas.

Martin Operating Partnership L.P., which operates a chemical fertilizer plant, has applied for a major amendment without renewal to Permit No. WQ0001757000 to authorize the addition of two new evaporation ponds to dispose of recovered groundwater, cooling tower blowdown, boiler blowdown, steam condensate, water treatment wastes, and wash water and storm water collected in the containment sump from a new sulfuric acid production unit; and authorization to route recovered groundwater to an existing Evaporation Pond No. 6. The current permit authorizes the disposal of storm water on an intermittent and flow variable basis via evaporation in Evaporation Pond No. 6 with 4.3 acres surface area. This permit will not authorize a discharge of pollutants into water in the State. The facility and evaporation ponds are located north of State Highway 194, approximately one and one-third miles west of the intersection of State Highway 194 and Interstate Highway 27, Hale County, Texas.

Northwest Harris County Municipal Utility District No. 15 has applied for a major amendment to TPDES Permit No. WQ0011939001 to authorize an increase in the discharge of treated domestic wastewater from an annual average flow not to exceed 2,500,000 gallons per day to an annual average flow not to exceed 3,120,000 gallons per day. The facility is located approximately 25 miles northwest of downtown Houston, 4.5 miles south of the City of Tomball, and one mile west of the intersection of Gregson Road and State Highway 249 in Harris County, Texas.

City of Huntsville has applied for a renewal of TPDES Permit No. WQ0010781002, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,600,000 gallons per day. The facility is located approximately 1.4 miles southwest of the Elkins Lake Dam and 3.5 miles south of the intersection of Farm-to-Market Road 1374 and Interstate Highway 45, south of the City of Huntsville in Walker County, Texas.

Dairy Farmers of America, Inc., which operates the Schulenburg Plant that manufactures processed cheese dip and salsa products, has applied for a renewal of Permit No. WQ0001664000, which authorizes the disposal of cooling tower blowdown, rinsate, and treated wash down water at a daily average flow not to exceed 26,000 gallons per day or at an irrigation rate not to exceed 2.2 acre-feet/acre/year on 17 acres of Bermuda Grass. This permit will not authorize a discharge of pollutants into the water in the State. The plant site is located on the northwest corner of James Street and Simpson Street, approximately 2/3 mile west of Interstate Highway 77, in the City of Schulenburg, Fayette County,

Texas. The facility and land application site are located in the drainage area of Segment No. 1605 of the Lavaca River Basin.

City of Hubbard has applied for a renewal of TPDES Permit No. 10534-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day. The facility is located south of the City of Hubbard; approximately 2 miles south of the intersection of State Highway 31 and 171 in Hill County, Texas.

Skidmore Water Supply Corporation has applied for a renewal of TPDES Permit No. 14112-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 131,000 gallons per day. The facility is located approximately 1,000 feet north of the end of Black Ranch Road and approximately 4,500 feet east and 4,200 feet north of the intersection of Farm-to-Market Road 797 and U.S. Route 181 in Bee County, Texas.

PD Glycol, which operates the PD Glycol Beaumont Plant, a producer of ethylene glycol and ethylene oxide, has applied for a renewal of TPDES Permit No. WQ0000490000, which authorizes the discharge of the discharge of non-process area storm water, boiler blowdown, steam condensate, fire fighting water, firesystem flushings, and raw water clarifier waste on an intermittent and flow variable basis via Outfall 001. The facility is located 3510 Gulf States Road, approximately three miles southeast of the Jefferson County Courthouse, east of the City of Beaumont, Jefferson County, Texas.

TXI Operations, LP, which operates the Streetman Expanded Shale and Clay Plant, a lightweight aggregate production facility, has applied for a renewal of TPDES Permit No. WQ0001691000, which authorizes the discharge of process water (cooling water and wet scrubber water) commingled with storm water at a daily average flow not to exceed 600,000 gallons per day via outfall 001; and storm water runoff on an intermittent and flow variable basis via Outfall 002. The facility is located at 14885 South Interstate Highway 45 East, approximately 1.5 miles north of the Wortham/Streetman exit and 2.25 miles northwest of the City of Streetman, in Navarro County, Texas.

Dallas Chemical Technologies, Inc., which operates the Houston Lignin Plant, a manufacturing and warehousing facility for lignosulfate and lignin based products, has applied for a major amendment to TPDES Permit No. WQ0001968000 to authorize the discharge of storm water associated with industrial activity, pad washdown water, and boiler blowdown via proposed Outfall 002. The current permit authorizes the discharge of storm water associated with industrial activity on an intermittent and flow variable basis via Outfall 001. The facility is located at 10120 Hirsch Road, south of the Parker Street and Hirsch Road intersection, in the City of Houston, Harris County, Texas.

ExxonMobil Oil Corporation which operates the Beaumont Refinery, a petroleum refinery, has applied for a renewal of TPDES Permit No. WQ0003426000, which authorizes the discharge of intermittent process wastewater and utility wastewater commingled with storm water on an intermittent and flow variable basis via Outfall 001. The facility is located at 1795 Burt Street, approximately two miles north of the intersection of State Highway 347 and U.S. Route 96, on the northeast side of State Highway 347, in the City of Beaumont, Jefferson County, Texas.

Hanson Pipe & Products, Inc., which operates the Grand Prairie Pressure Pipe Plant, a concrete pressure pipe and products manufacturing facility, has applied for a renewal of TPDES Permit No. WQ0003446000, which authorizes the discharge of process wastewater, boiler blowdown, hydrostatic test water, and storm water on an intermittent and flow variable basis via Outfall 001. The facility is located at 1004 north MacArthur Boulevard, at the northeast quadrant

of the intersection of Interstate Highway 30 and North MacArthur Boulevard in the City of Grand Prairie, Dallas County, Texas.

City of Baytown has applied for a major amendment to TPDES Permit No. WQ0010395008 to authorize an increase in the discharge of treated domestic wastewater from an annual average flow not to exceed 4,000,000 gallons per day to an annual average flow not to exceed 8,000,000 gallons per day. TCEQ received this application on May 25, 2006. The facility is located at the crossing of Interstate Highway 10 and Spring Gully, due south of Interstate Highway 10 and on the east side of Spring Gully within the City of Baytown in Harris County, Texas.

Acme Brick Company, which operates the Hobson Pit, a clay mining site, has applied for a renewal of TPDES Permit No. WQ0003838000, which authorizes the discharge of mine pit water and storm water runoff on an intermittent and flow variable basis via Outfalls 001 and 002. The facility is located at 220 Daniels Street, adjacent to the east side of U.S. Highway 377, approximately one-mile south of the intersection of U.S. Highway 377 and Interstate Highway 35E in the City of Denton, Denton County, Texas.

Oxy Vinyls, which operates the Battleground Chlor-Alkali Plant, a facility that manufactures caustic and chlorine, has applied for a renewal of TPDES Permit No. WQ0001539000, which authorizes the discharge of treated process wastewater, utility waters, storm water, and previously monitored effluent (treated domestic wastewater) at a daily average flow not to exceed 2,150,000 gallons per day via Outfall 001, and storm water on an intermittent and flow variable basis via Outfall 002. The application also includes a request for a temporary variance to the existing water quality standards for the water quality based criteria for nickel for Santa Anna Bayou in Segment No. 1005 of the San Jacinto River Basin. The variance would authorize a three-year period in which to conduct a water quality study of the Santa Anna Bayou, into which the wastewater is discharged. The study would show whether a site-specific amendment to water quality standards is justified. Prior to the expiration of the three-year variance period, the Commission will consider the site-specific standards and determine whether to adopt the standards or require the existing water quality standards to remain in effect. The facility is located on the east side of State Park Road 1836 (Vista Road) approximately 1,000 feet northeast of the intersection with State Highway 134 (Battleground Road) in the City of La Porte, Harris County, Texas.

The following do not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, at the address provided in the information section above, **WITHIN 30 DAYS OF THE MAILED DATE OF THE NOTICE.**

WQ0003996000; Tenaska Frontiers Partners, which operates a gas fired electric generating plant, has applied for a minor amendment to authorize the removal of irrigation-related provisions from the facility's permit. The existing permit authorizes the discharge of cooling tower blowdown, boiler blowdown, reverse osmosis reject water, water treatment filter backwash, and previously monitored effluents (PMEs) from outfall 101 (low volume waste sources, metal cleaning wastes, chemical cleaning wastes, hydrostatic test waters, water from flushing of tanks, piping, and other equipment), and storm water at a daily average flow not to exceed 2,500,000 gallons per day via Outfall 001, and the disposal of cooling tower blowdown, boiler blowdown, reverse osmosis reject water, water treatment backwash, low volume waste sources, metal cleaning wastes, chemical cleaning wastes, hydrostatic test wastewaters, water from flushing of tanks, piping and other equipment, and storm water via irrigation of 375 acres. The facility is located on the south side of Highway 30 approximately two miles southwest of the City of Shiro, Grimes County, Texas.

The irrigation site is located approximately one mile northwest of the intersection of Highway 30 and Farm-to-Market Road 1486, Grimes County, Texas. Notice was mailed on October 12, 2006.

WQ0010492002; City of Hamilton has applied to the Texas Commission on Environmental Quality (TCEQ) for a minor amendment to the Texas Pollutant Discharge Elimination System (TPDES) permit to include an interim II phase of 620,000 gallons per day and replace the existing chlorine disinfection system with an ultraviolet light disinfection system for the interim II and final phase. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 880,000 gallons per day. The facility is located approximately 1,900 feet east of U.S. Highway 281 in the City of Hamilton and located immediately south of Pecan Creek at a point 2,800 feet north of State Highway 36 in Hamilton County, Texas. Notice was mailed on October 12, 2006.

INFORMATION SECTION

To view the complete issued notices, view the notices on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200605678

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 18, 2006



Notice of Water Rights Application

Notice issued October 13, 2006

APPLICATION NO. 14-2488C; K&B Powell Family Limited Partnership, 704 West 12th Street, Brady, TX 76825, Applicant, has applied to sever a portion of the water rights authorized by Certificate of Adjudication No. 14-2479, combine it with water rights authorized by Certificate of Adjudication No. 14-2488; and amend that portion under Certificate of Adjudication No. 14-2488 to change the place of use and diversion point. The application was received on April 26, 2006. Additional information and fees were received on July 20, 2006 and August 7, 2006. The application was accepted for filing and declared administratively complete on August 22, 2006. Applicant owns Certificate of Adjudication No. 14-2488, which authorizes the diversion and use of not to exceed 122 acre-feet of water per year from the Colorado River and 100 acre-feet of water per year from either the Colorado River or Bull Creek, tributary of the Colorado River, the Colorado River Basin at a maximum combined diversion rate of 4.3 cfs (1,930 gpm) in combination with the 117 acre-foot diversion from Certificate of Adjudication No. 14-2479 for agricultural purposes to irrigate 150 acres out of a 222-acre tract in Coleman County, Texas. Applicant owns a portion of Certificate of Adjudication No. 14-2479, which authorizes the owner to divert and use not to exceed 117 acre-feet of water per year from the Colorado River, Colorado River Basin for agricultural (irrigation) purposes in McCulloch County. Applicant seeks to sever a portion of Certificate of Adjudication No. 14-2479, which authorizes the owner to divert and use not to exceed 117 acre-feet of water per year from the Colorado River, Colorado River Basin for agricultural (irrigation)

purposes in McCulloch County. Applicant further seeks to amend Certificate of Adjudication No. 14-2488 to change the place of use and diversion point of the 117 acre-foot portion of water being used for agricultural (irrigation) purposes authorized in Certificate of Adjudication No. 14-2488. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below by November 3, 2006.

INFORMATION SECTION

To view the complete issued notices, view the notices on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200605679

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 18, 2006



Office of the Governor

Request for Grant Applications (RFA) for the Coverdell Forensic Sciences Improvement Program

The Criminal Justice Division (CJD) of the Governor's Office is soliciting applications to improve the quality and timeliness of forensic science and medical examiner services during the federal fiscal year 2007 grant cycle.

Purpose: The purpose of the program is to improve the quality and timeliness of forensic science and medical examiner services including the backlog of non-DNA forensic evidence.

Available Funding: Federal funding is authorized under the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (H.R. 2862). A total of \$779,670 is available for all grants funded under this RFA.

Required Match: No match is required for this program.

Standards: Grantees must comply with the standards applicable to this funding source cited in the *Texas Administrative Code*, Title 1, Part 1, Chapter 3, and all statutes, regulations and guidelines applicable to this funding.

Prohibitions: Grant funds may not be used for the following services, activities and costs:

- (1) expenses for general law enforcement or non-forensic investigatory functions;
- (2) construction or renovation costs;
- (3) land acquisition;
- (4) indirect costs;
- (5) administrative costs;
- (6) admission fees or tickets to any amusement park, recreational activity or sporting event;
- (7) food, meals, beverages, or other refreshments unless the expense is for a working event where full participation by participants mandates the provision of food and beverages and the event is not related to amusement and/or social activities in any way;
- (8) fundraising;
- (9) lobbying;
- (10) health care services;
- (11) membership dues for individuals;
- (12) promotional gifts;
- (13) proselytizing or sectarian worship;
- (14) transportation, lodging, per diem or any related costs for participants, when grant funds are used to develop and conduct training;
- (15) vehicles or equipment for government agencies that are for general agency use;
- (16) weapons, ammunition, explosives or military vehicles;
- (17) any expense or service that is readily available at no cost to the grant project or that is provided by other federal, state or local funds (e.g., supplanting); and
- (18) research or statistical projects or activities.

Eligible Applicants: State agencies and units of local government that operate laboratories accredited by a national accreditation body and the Texas Department of Public Safety.

Requirements: Applicants must comply with the following:

- (1) be accredited by a nationally recognized accrediting body;
- (2) comply with state regulations and rules for accreditation promulgated by the Texas Department of Public Safety in the *Texas Administrative Code*, Title 37, Part 1, Chapter 28, Subchapter H;
- (3) comply with state regulations for reporting misconduct or professional negligence to the Texas Forensic Science Commission, Code of Criminal Procedure, Article 38.01; or to the Texas Medical Board, Occupations Code, Chapter 164.

(4) use generally accepted laboratory practices and procedures established by accrediting organizations or appropriate certifying bodies;

(5) assure that all project personnel comply with 28 C.F.R., Part 22 regarding protection of personally identifiable information that may be collected for research or statistical purposes;

(6) ensure contractors comply with all applicable rules and regulations;

(7) use funds for one or more of the following purposes:

(a) improve the quality and timeliness of forensic services;

(b) eliminate a backlog in the analysis of forensic science evidence, including firearms examinations, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence. A backlog exists if forensic evidence has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility, and has not been subjected to all appropriate forensic testing because of a lack of resources or personnel;

(8) allowable uses of funds are limited to the following:

(a) overtime for forensic personnel;

(b) computerization including funds to upgrade, replace, lease or purchase computer hardware and software for forensic analyses and data management;

(c) laboratory equipment including the upgrade, replacement, lease or purchase of laboratory or medical examiner equipment and instrumentation; and

(d) laboratory supplies.

Project Period: Grant-funded projects will begin on or after January 1, 2007, and will expire on or before June 30, 2007.

Application Process: Eligible applicants can download an application kit from the Office of the Governor's website address at <http://www.governor.state.tx.us/divisions/cjd/formsapps/view>.

Preferences: Preference will be given to projects that will improve the quality and timeliness of forensic analysis.

Closing Date for Receipt of Applications: Submit all applications electronically to the Office of the Governor, Criminal Justice Division via email at cjdapps@governor.state.tx.us on or before November 30, 2006.

Selection Process: Applications are reviewed by CJD staff members or a group selected by the Executive Director of CJD. CJD will make all final funding decisions based on the requirements established in the *Texas Administrative Code*, Title 1, Part 1, Chapter 3, §3.7.

Contact Person: If additional information is needed, contact Judy Switzer at jswitzer@governor.state.tx.us or at (512) 463-1919.

TRD-200605667

David Zimmerman

Assistant General Counsel

Office of the Governor

Filed: October 18, 2006



Texas Health and Human Services Commission

Public Notice - Intent to Submit Transmittal Number 06-030, Amendment Number 748

The Texas Health and Human Services Commission announces its intent to submit Transmittal Number 06-030, Amendment Number 748,

to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The proposed amendment is effective November 1, 2006.

The purpose of this amendment is to modify the Medicaid reimbursement methodology for inpatient psychiatric services. The reimbursement methodology for freestanding psychiatric hospitals will change from the Tax Equity and Fiscal Responsibility (TEFRA) cost-based principles to a hospital-specific per diem payment rate. All freestanding psychiatric facilities will receive a hospital-specific per diem amount based on the provider's total Medicaid costs, total Medicaid days, and allocated Medicaid portion of physician expenses. Using the provider's Medicaid costs to calculate its hospital-specific per diem amount yields a reimbursement amount that better reflects the provider's actual costs.

The proposed amendment is estimated to result in an additional cost of \$4,351,505 for federal fiscal year (FFY) 2007, with approximately \$2,664,905 additional cost in federal funds and approximately \$1,706,700 additional cost in state general revenue. For FFY 2008, the estimated additional cost is approximately \$5,693,745 with approximately \$3,455,534 additional cost in federal funds and approximately \$2,238,211 additional cost in state general revenue.

To obtain copies of the proposed amendment, interested parties may contact Alisa Jacquet by mail at Rate Analysis Department, Medicaid/CHIP Division, Texas Health and Human Services Commission, P.O. Box 85200, mail code H-400, Austin, Texas 78708-5200; by telephone at (512) 491-1432; by facsimile at (512) 491-1998; or by e-mail at alisa.jacquet@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-200605676

Lee Dickinson

Assistant General Counsel

Texas Health and Human Services Commission

Filed: October 18, 2006

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Texas Department of Housing and Community Affairs

2006 State of Texas Public Hearing Schedule on Rules Governing the Texas Bootstrap Loan Program, Colonia Self-Help Center and Colonia Housing Standard

The Texas Department of Housing and Community Affairs (TDHCA), Office of Colonia Initiatives (OCI) announces the hearing schedule to gather comments on program draft rules. Four public hearings will be held to gather comment on the following topics included below.

The public comment period pertains to the draft rules:

Colonia Self-Help Center Program, Texas Bootstrap Program, Colonia Housing Standards. The public comment period for these rules runs October 27 - December 3, 2006.

Documents related to the hearings will be available for review on the following website: www.tdhca.state.tx.us. Printed copies of the documents will be available upon request by calling (512) 475-2118.

Public hearings will be held at the following times and locations:

Dallas Public Library

Dallas West Room

1515 Young St.

Dallas, TX 75201

November 10, 2006, 10:00 a.m.

Bazan Library

2200 W. Commerce, San Antonio

November 10, 2006, 10:00 a.m.

McAllen City Hall

3rd Floor Conference Room

1300 Houston Avenue, McAllen

November 15, 2006, 10:00 a.m.

City Council Chambers,

2nd Floor

2 Civic Center Plaza, El Paso

November 17, 2006, 10:00 a.m.

Public comment will be accepted directly at the public hearings, by mail, or via e-mail to the addresses below.

For comment on the rules:

TDHCA-OCI

Attention: Homero Cabello

P.O. Box 13941

Austin, TX 78711

Fax: (512) 475-2118

E-mail: homero.cabello@tdhca.state.tx.us

For more information on the hearings, contact TDHCA at (512) 475-2118.

Individuals who require a language interpreter for the hearing should contact Homero Cabello at least three days prior to the hearing date. Personas que hablan español y requieren un interprete, favor de llamar a Homero Cabello al siguiente numero (512) 475-2118 por lo menos tres dias antes de la junta para hacer los preparativos apropiados. Individuals who require auxiliary aids or services should contact Gina Esteves, ADA-Responsible Employee, at (512) 475-3943 or Relay Texas at 1-800-735-2989 at least two days prior to the scheduled hearing so that appropriate arrangements can be made.

TRD-200605683

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Filed: October 18, 2006

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Final Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments

The Texas Department of Housing and Community Affairs (the Department) adopts, with changes, the Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments, as published in the August 11, 2006, issue of the *Texas Register* (31 TexReg 6406).

This section is adopted, with changes, in order to implement changes that will effectively improve the financial feasibility of the developments.

The scope of the public comment concerning the Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments pertains to the following sections:

SUMMARY OF COMMENT RECEIVED UPON PUBLICATION OF THE PROPOSED POLICY IN THE TEXAS REGISTER.

The Department received written comments during the public comment period. In addition, during this public comment period, staff identified several issues that required clarification. These comments, as well as Department responses and clarifications are outlined below and are divided into the following two sections:

I. Substantive Comments and Department Response

II. Administrative Clarifications and Corrections

I. Substantive Comments and Department Response

General Comments

Comment:

Several comments provided positive feedback and/or support for the Department's efforts to create a policy to address direct construction cost increases.

Department Response:

Staff appreciates the commendation with regard to the policy.

Section II. Method of Allocation

Comment:

Comment suggests clarifying which developments will be eligible for an additional allocation of tax credits, specifically whether 2003 applications awarded credits out of the 2004 ceiling are eligible. If these applications are not eligible under the Draft Policy, comment suggests that 2003 applications awarded credits out of the 2004 ceiling be eligible under the Final Policy. Additional comment suggests clarifying whether developments that received an award in 2005 for credits from the 2006 credit ceiling are eligible under the policy, and whether one particular development awarded a forward commitment in 2005 for credits from the 2006 ceiling that was subsequently reissued as a 2006 award of credits from the 2007 credit ceiling will be eligible under this policy.

Department Response:

Staff recommends the following language to clarify eligibility under the policy: The Department will offer an allocation of additional credits to all competitive HTC developments awarded from the 2004 and 2005 Tax Credit Ceilings that were not placed in service or did not complete cost certification before January 1, 2006. Developments awarded a Forward Commitment in 2005 for tax credits from the 2006 HTC Ceiling are also considered eligible under this policy. For the purpose of this policy, 2003 awards from the 2004 Tax Credit Ceiling and 2004 awards from the 2004 Tax Credit Ceiling will herein after be referred to as "2004 awarded developments." Likewise, 2004 awards from the 2005 Tax Credit Ceiling and 2005 awards from the 2005 Tax Credit Ceiling will herein after be referred to as "2005 awarded developments." Finally, 2005 awards from the 2006 Tax Credit Ceiling will herein after be referred to as "2005 forward committed developments."

As it applies to Fairway Crossing, the development that received a forward commitment in 2005 for credits from the 2006 ceiling that was subsequently reissued as a 2006 award of credits from the 2007 credit ceiling, the 14% increase will also be available as referenced above.

Comment:

Comment suggests that site work receive a 14% increase as well as direct construction costs.

Department Response: Staff concurs and recommends using a methodology that applies a 14% increase in site work costs and direct construction costs in determining the amount of award; staff has clarified this in multiple sections of the Final Policy and has used this methodology in creating the list of recommended awards outlined in the Award Recommendations section of this Board Action Request.

Comment:

Comment suggests offering more than a 14% increase for developments that are 50 units or smaller and to developments whose construction contracts were negotiated between October 2004 and March 2005. Developments with 50 units or less should receive a 15% increase, developments with contracts negotiated before January 1, 2005 should receive a 17% increase, between January 1, 2005 and March 31, 2005 should receive a 16% increase and after March 31, 2005 receive a 14% increase.

Department Response:

While staff appreciates the proposal for increased percentages for developments with 50 or fewer units and for those with construction contracts negotiated between October 2004 and March 2005, staff believes that one calculation should be utilized to ensure simplified, equitable treatment. Therefore, staff recommends no change.

Comment:

Comment suggests clarification of which line items are included in direct construction costs. Additional comment asks specifically whether direct construction costs include general requirements, contractor overhead and contractor profit.

Department Response:

Staff recommends the following language to clarify the items included in direct construction costs: The amount of each development's award will be determined by the Department using a methodology that applies a 14% increase to the site work and direct construction costs as reflected in the most recent Underwriting report and then completes the credit determination based on that adjustment. The portions of the Department Development Cost Schedule associated with site work and direct construction costs as reflected in the Underwriting report are Site Work and Direct Construction Costs: Hard Costs.

Comment:

Comment suggests clarification regarding whether the applicant's or Department's numbers from the Underwriting Report will be used to calculate the 14% increase.

Department Response:

Staff recommends the following language to clarify which numbers will be relied upon to determine the amount of the additional allocation of credits: Staff will use the numbers relied upon in the most recent Underwriting Report, either the applicant's or Department's as applicable, to determine the amount of the additional allocation of credits.

Comment:

Comment suggests clarification regarding which applicable percentage will be used in the Department's calculation: the current percentage, or the percentage applicable during the original application period.

Department Response:

Staff recommends the following language to clarify which applicable percentage will be used to determine the amount of the additional allocation of credits: The applicable percentage used in the most recent

Underwriting Report will be used to determine the amount of the additional allocation of credits.

Comment:

Comment suggests that the Department clarify whether the 30% increase for location of a development in a QCT will apply.

Department Response:

The Department will not consider the 30% increase for QCT or DDA in the award an allocation of additional credits. Costs such as land acquisition, zoning entitlement, marketing, builder and developer incentive or profit are costs that are most typically associated with QCT and DDA locations and these costs are not eligible for the proposed 14% increase. Staff recommends the following language to clarify whether the 30% increase for QCT or DDA will apply: Developments will not be eligible for a 30% increase in eligible basis based on the development's location in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA).

Comment:

Comment suggests clarification regarding the treatment under the policy of a development that was previously granted an amendment by the Department that increased development costs.

Department Response:

Staff recommends the following language to clarify treatment of developments that have been granted an amendment by the Department: Staff will perform an additional review of any development that has been granted an amendment by the Department to ensure that no development receives a disproportionate benefit under this Final Policy.

Comment:

Comment requests clarification on the impact of the policy on the \$2 million limit and suggests that the limit applies to the 2007 application round for developments awarded additional credits out of the 2007 credit ceiling. Comment further requests clarification on which year the limit will affect: the year of original award, or the year of the credit ceiling of the additional allocation.

Department Response:

Staff recommends the following language to clarify the impact of the \$2 million limit: Pursuant to §2306.6711(b) of Tex. Gov't. Code, the Department may not allocate more than \$2 million in housing tax credits to any applicant in a single application round. The additional credits allocated under this policy will apply to the \$2 million cap for the year of the Tax Credit Ceiling from which the award of additional tax credits is being made. In the event that this requirement prevents a development from receiving the tax credits for which it is eligible, the applicant may, at his discretion, choose which development of which he is a principal will receive the award of additional tax credits, if more than one development is affected.

Comment:

Comment requests clarification on the impact of the policy on the \$1.2 million limit and suggests a waiver of this limit.

Department Response:

Staff concurs and proposes that the \$1.2 million limit be waived and the limit increased to \$1.368 million, equal to a 14% increase in the \$1.2 million limit. Staff recommends the following language to clarify the impact of the \$1.2 million limit: The Department will limit the allocation of tax credits to no more than \$1.368 million per Development.

Section III. Procedures

Comment:

Paragraph 4 - Comment suggests that the Department clarify when the "binding agreement" becomes binding.

Department Response:

Staff recommends the following language to clarify when the binding agreement is effective: The Department will review the binding agreement and, upon satisfaction, the agreement will be executed by the Executive Director of the Department. The execution by the Executive Director will occur no later than December 31, 2006 for the 2004 awarded developments and 2005 awarded developments placed in service in 2006, and no later than March 1, 2007 for the 2005 awarded developments and 2005 forward committed developments to be placed in service after 2006. The binding agreement will be considered effective as of the date the Executive Director of the Department executes the agreement.

Comment:

Paragraph 5 - Comment suggests that the Department clarifies what constitutes a "new activity."

Department Response:

Staff recommends no changes to the policy to clarify "new activities," as staff feels that the statement "this analysis will be based on the development details originally proposed and credits will not be eligible for new activities not originally proposed" is adequately descriptive. Activities not originally proposed in the original application will not be eligible for credits.

Comment:

Paragraph 5 - Comment suggests clarification regarding how cost increases must be substantiated at cost certification, i.e. must direct construction costs have increased by 14% or will an increase in construction costs in general or development costs in general be allowed to substantiate the additional allocation.

Department Response:

Staff recommends the following language to clarify which costs must substantiate the additional allocation of credits: Further, a detailed cost analysis will be required at the time of cost certification that will be utilized to ensure that site work and direct construction costs specifically increased by the estimated 14%.

Comment:

Paragraph 6 - Comment suggests removing the reference to the QAP to prevent confusion about which year's QAP is being referenced.

Department Response:

Staff recommends the following language to clarify which year's Qualified Allocation Plan (QAP) applies to eligible developments: Applications that are granted an additional award of 2006 Housing Tax Credits or a Forward Commitment of 2007 or 2008 Housing Tax Credits are considered by the Board to comply with the respective 2006, 2007, or 2008 QAP by having satisfied the requirements of the QAP under which the original application was submitted, except for statutorily required QAP changes.

Comment:

Paragraph 7 - Comment suggests that it is unclear if the "application" referred to in this paragraph is the same as the "binding agreement" referred to elsewhere in the Draft Policy. Comment also suggests that all projects that are not in material noncompliance are eligible for award; this comment suggests that the material noncompliance should be linked only to the project in question and not to other projects

involving the same principals. The new language suggested by this comment is "The binding agreement will be reviewed before the issuance of a letter to ensure that the project receiving the additional credits is not in material non-compliance as of the date of the approval of this policy by the Board as determined by the Portfolio Management and Compliance Division of the Department."

Department Response:

Staff recommends the following language to clarify that the credit increase is not available to parties with Material Noncompliance on other properties: The binding agreement will be reviewed before execution by the Executive Director of the Department to ensure that the principals of the development receiving an allocation of additional credits are not in material non-compliance on other developments in which they are a party. The Portfolio Management and Compliance division of the Department will perform this review as of November 17, 2006.

II. Administrative Clarifications and Corrections

Section III. Procedures

Administrative changes were made to clarify the process the Department will use to award additional credits under the Final Policy:

An administrative change was made to clarify that deadlines applicable to the development will not be extended as a result of the additional allocation of credits under this Final Policy.

An administrative change was made to clarify the effect of §2306.6711(f), the one mile test, on the policy.

An administrative change was made to clarify the effect of §2306.6703(a)(3) on the policy.

An administrative change was made to clarify the effect of §2306.6703(a)(4) on the policy.

An administrative change was made to clarify the effect of the policy on the LURA.

An administrative change was made to clarify the effect of the policy on IRS Forms 8609.

Other minor changes have been made to correct errors in grammar, etc.

The Texas Department of Housing and Community Affairs (the Department) adopts, with changes, the Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments, as published in the August 11, 2006, issue of the *Texas Register* (31 TexReg 6404).

This section is adopted, with changes, in order to implement changes that will effectively improve the financial feasibility of the developments.

The policy is adopted pursuant to the authority of the Texas Government Code, Chapter 2306.

Section I. Introduction and Purpose

The Texas Department of Housing and Community Affairs (the "Department") has received numerous inquiries relating to increased direct construction costs over the past year that generally are attributed to the impact of Hurricanes Katrina and Rita during September 2005. While limited data at a national or state level relating to these cost increases is available at this time, the Department has researched this issue using comparative cost multipliers by region from 2003 to 2006 from Marshall & Swift. Department research indicates that the existing 2004 and 2005 Competitive Housing Tax Credit (HTC) developments in the Department's inventory are affected by these increases in direct construction costs by an average of 14%. The purpose of this policy is to outline how the Department will act to assist those

developments in ascertaining additional tax credits to accommodate those cost increases. It is estimated that the total amount of additional credits that might be necessary to accommodate this policy for 2004 is \$2,966,327 that would be utilized from the 2007 credit ceiling, for 2005 is \$3,396,511 that would be utilized from the 2008 credit ceiling and for 2005 forward commitments of tax credits from the 2006 credit ceiling \$160,098 that would be utilized from the 2006 credit ceiling for a total of \$6,522,936.

Section II. Eligibility and Method of Allocation

The Department will offer an allocation of additional credits to all competitive HTC developments awarded from the 2004 and 2005 Tax Credit Ceilings that were not placed in service or did not complete cost certification before January 1, 2006. Developments awarded a Forward Commitment in 2005 for tax credits from the 2006 HTC Ceiling are also considered eligible under this policy. For the purpose of this policy, 2003 awards from the 2004 Tax Credit Ceiling and 2004 awards from the 2004 Tax Credit Ceiling will herein after be referred to as "2004 awarded developments." Likewise, 2004 awards from the 2005 Tax Credit Ceiling and 2005 awards from the 2005 Tax Credit Ceiling will herein after be referred to as "2005 awarded developments." Finally, 2005 awards from the 2006 Tax Credit Ceiling will herein after be referred to as "2005 forward committed developments."

The additional allocation will be made pursuant to a binding agreement to allocate credits from the Department's 2007 Tax Credit Ceiling to all 2004 awarded developments, from the Department's 2008 Tax Credit Ceiling to all 2005 awarded developments and from the Department's 2006 Tax Credit Ceiling to all 2005 forward committed developments. The amount of each development's award will be determined by the Department using a methodology that applies a 14% increase to the site work and direct construction costs as reflected in the most recent Underwriting report and then completes the credit determination based on that adjustment. The portions of the Department Development Cost Schedule associated with site work and direct construction costs as reflected in the Underwriting report are Site Work and Direct Construction Costs: Hard Costs. The amount of the additional 2006, 2007, or 2008 allocation will be the difference between the newly calculated credit amount and the amount originally committed.

Developments will not be eligible for a 30% increase in eligible basis based on the development's location in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA).

Staff will use the numbers relied upon in the most recent Underwriting Report, either the applicant's or Department's as applicable, to determine the amount of the additional allocation of credits. The applicable percentage used in the most recent Underwriting Report will be used to determine the amount of the additional allocation of credits. Staff will perform an additional review of any development that has been granted an amendment by the Department to ensure that no development receives a disproportionate benefit under this Final Policy.

Pursuant to §2306.6711(b) of Tex. Gov't. Code, the Department may not allocate more than \$2 million in housing tax credits to any applicant in a single application round. The additional credits allocated under this policy will apply to the \$2 million cap for the year of the Tax Credit Ceiling from which the award of additional tax credits is being made. In the event that this requirement prevents a development from receiving the tax credits for which it is eligible, the applicant may, at his discretion, choose which development of which he is a principal will receive the award of additional tax credits, if more than one development is affected.

The Department will limit the allocation of tax credits to no more than \$1.368 million per Development.

Section III. Procedures

The following procedures will be utilized in implementing this process.

1. 2005 forward committed applications will be issued a revised 2006 Commitment Notice in the amount of the original award plus the additional amount as calculated by the Department. The revised award will come out of the 2006 Tax Credit Ceiling.
2. The Department will issue all 2004 and 2005 awarded developments a binding agreement indicating the specific additional allocation amount as calculated by the Department and instructions consistent with this policy for the binding agreement's return submission.
3. Owners that choose not to utilize the additional credits will return an election form indicating their decision not to proceed with the allocation by October 31, 2006. No credits will be set aside from the 2006, 2007, or 2008 HTC Ceiling for such developments.
4. Owners that choose to utilize the additional allocation will execute and return the binding agreement, pursuant to Treasury Regulation §1.42-8, in a format provided to the owner, with a fee equal to 5% of the credit amount allocated by October 31, 2006.
5. The Department will review the binding agreement and, upon satisfaction, the agreement will be executed by the Executive Director of the Department. The execution by the Executive Director will occur no later than December 31, 2006 for the 2004 awarded developments and 2005 awarded developments placed in service in 2006, and no later than March 1, 2007 for the 2005 awarded developments and 2005 forward committed developments to be placed in service after 2006. The binding agreement will be considered effective as of the date the Executive Director of the Department executes the agreement.
6. The Department will assign a new project number from the year of the new allocation to all developments that receive an additional allocation under this policy. This new number must be used, in addition to the original project number, in any correspondence with the Department.
7. Upon placement in service and submission of the cost certification, the Applicant will be required to substantiate their total costs and credit allocation consistent with the requirements set forth in the Cost Certification Manual. All deadlines applicable to the original application will apply under this policy; no extensions will result from the allocation of additional credits. Unsubstantiated credits for 2004 awarded developments will be returned to the 2007 HTC Ceiling, and for 2005 awarded developments unsubstantiated credits will be returned to the 2008 HTC Ceiling. Unsubstantiated credits for 2005 forward committed developments will be handled, as all other 2006 allocations, at Cost Certification. Specifically, this analysis will be based on the development details originally proposed and credits will not be eligible for new activities not originally proposed. Further, a detailed cost analysis will be required at the time of cost certification that will be utilized to ensure that site work and direct construction costs specifically increased by the estimated 14%.
8. Applications that are granted an additional award of 2006 Housing Tax Credits or a Forward Commitment of 2007 or 2008 Housing Tax Credits are considered by the Board to comply with the respective 2006, 2007, or 2008 QAP by having satisfied the requirements of the QAP under which the original application was submitted, except for statutorily required QAP changes.
9. The binding agreement will be reviewed before execution by the Executive Director of the Department to ensure that the principals of the development receiving an allocation of additional credits are not in material non-compliance on other developments in which they are

a party. The Portfolio Management and Compliance division of the Department will perform this review as of November 17, 2006.

10. For all allocations made under this policy the credit amount awarded for 2004 awarded developments will be attributed to the proper region and set-asides from the 2007 Ceiling, for 2005 awarded developments will be attributed to the proper region and set-asides from the 2008 Ceiling, and for 2005 forward committed developments will be attributed to the proper region and set-asides from the 2006 Ceiling to ensure adherence to the Regional Allocation Formula in 2006, 2007, and 2008.

11. Pursuant to §2306.6711(f), "The board may allocate housing tax credits to more than one development in a single community . . . only if the developments are or will be located more than one linear mile apart." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2007 or 2008 respectively. (Example: all proposed applications in the 2007 competitive cycle that are within one mile of a development that receives additional credits will not be eligible to receive an allocation in the 2007 cycle.)

12. Pursuant to §2306.6703(a)(3), an application will be considered ineligible if the applicant proposes to construct a new development that is located one linear mile or less from a development that serves the same type of household as the new development and has received an allocation of housing tax credits for new construction at any time during the three-year period preceding the date the application round begins. For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2006, 2007, or 2008 respectively. (Example: any application proposed within a three year period from the date of Board action for additional credits that are within one mile of a development that receives additional credits will not be eligible to receive an allocation without a resolution from the appropriate governing body.)

13. Pursuant to §2306.6703(a)(4), an application will be considered ineligible if "the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds . . ." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications, the amount of additional credits allocated under this policy will be applied to the calculation accordingly going forward.

14. The Land Use Restriction Agreement (LURA) for eligible developments that were not placed in service or did not complete cost certification during 2006 will not be affected. To the extent that any eligible development did place in service or complete cost certification during 2006 and recorded a LURA with the Department, the credit award amount reflected in the LURA will be amended within the LURA using the Department's administrative LURA amendment process.

15. Each eligible 2004 and 2005 awarded development that receives an additional allocation of tax credits under this policy will receive new IRS Forms 8609 for the amount of additional allocation substantiated at cost certification. Each eligible 2004 and 2005 awarded development

will therefore receive two complete sets of IRS Forms 8609; one set for the amount of original allocation and one set for the amount of the additional allocation under this policy. 2005 forward committed developments will receive only one set of IRS Forms 8609.

TRD-200605682
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: October 18, 2006



Request for Proposal

The Texas Department of Housing and Community Affairs ("TDHCA/The Department") seeks proposals from architectural and/or engineering individuals/firms with experience conducting Uniform Physical Condition Standards Inspections (UPCS). The purpose is to inspect developments funded through the Housing Tax Credit program (HTC), the HOME Investment Partnership program (HOME), the Tax Exempt Bond program (BOND), the Housing Trust Fund/Preservation programs (HTF), and the Federal Deposit Insurance Corporation's Affordable Housing program (AHP) to ensure that they comply with the requirements of the Uniform Physical Condition Standards for public housing established by U.S. Department of Housing and Urban Development (HUD) (24 CFR 5.703).

The deadline for submission is November 30, 2006 at 4 p.m.

The Department reserves the right to accept or reject any or all proposals submitted and is under no legal or other obligation to execute an agreement on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits the Department to pay for any costs incurred prior to the award of a grant. One or multiple awards may be made to satisfy the needs of the Department in all regions statewide.

Parties interested in submitting a proposal may obtain information by contacting Wendy Quackenbush, Compliance Monitoring Team Leader, at (512) 305-8860. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at <http://esbd.tbpc.state.tx.us/>.

TRD-200605684
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: October 18, 2006



Texas Bootstrap Loan Program Notice of Funding Availability (NOFA)

The Texas Department of Housing and Community Affairs (TDHCA/the Department), through its Office of Colonia Initiatives (OCI), is pleased to announce that it will make available approximately Two Million Dollars (\$2,000,000) to purchase or refinance real property on which to build new residential housing or improve existing residential housing through self-help construction for low, very low, and extremely low income individuals and families (Owner-Builders); including persons with special needs.

The Department has de-obligated these funds from Texas Bootstrap Loan Program contracts awarded in fiscal years 2002, 2003 and 2004 due to nonperformance and unresolved compliance issues. These de-obligated funds are a combination of Housing Trust Funds and Bond Proceeds. In order to recommit and expend these funds immediately, funding priority will be given to organizations that have projects

that are ready to proceed. It is the Department's intent to expend these funds by December 31, 2007; however, applications that clearly demonstrate the ability to expend the funds by August 31, 2007 will be given the highest consideration.

TDHCA administers the Texas Bootstrap Loan Program (the "Program") by working through Colonia Self-Help Centers established under §2306, Subchapter Z, §2306.582 of the Texas Government Code or a nonprofit organization certified by TDHCA as a Nonprofit Owner-Builder Housing Programs (NOHP) as described in Subchapter FF, §2306.755 of the Texas Government Code.

To be eligible for state certification, TDHCA may certify NOHP's operated by a tax-exempt organization listed under §501(C)(3), Internal Revenue Code of 1986 to:

- (1) qualify potential owner-builders for loans under this subchapter;
- (2) provide owner-builder education classes such as:
 - (a) financial responsibilities of an owner-builder under this subchapter, including the consequences of an owner-builder's failure to meet those responsibilities;
 - (b) building of housing by owner-builders;
 - (c) resources for low-cost building materials available to owner-builders; and
 - (d) resources for building assistance available to owner-builders.
- (3) assist owner-builders in building housing; and
- (4) originate or service loans made by the TDHCA under this subchapter.

In an effort to encourage the production of affordable housing for individuals and families of extremely low income, TDHCA is meeting its goal of directing the funds in accordance with Rider 3, General Appropriations Act 78th Legislative Session. In addition, §2306.753(a) of the Texas Government Code directs TDHCA to establish a priority in directing funds to owner-builders with an annual income of less than \$17,500. The maximum amount of funding per organization is \$600,000. The maximum loan amount using TDHCA funds may not exceed \$30,000 per owner-builder. The total amount of loans made with TDHCA and any other source combined may not exceed \$60,000 per household. Projects utilizing additional non-TDHCA resources will be required to provide additional documentation identifying the sources of these additional funds and information about their rates and terms.

Eligibility requirements establish a priority for loans made to Owner-Builders, as set out in §2306.753, Texas Government Code, with an annual income of less than \$17,500.

To be eligible for a loan, an Owner-Builder:

- (1) may not have an annual income that exceeds 60 percent, as determined by TDHCA, of the greater of the state or local Area Median Family Income (AMFI), when combined with the income of any person who resides with the Owner-Builder;
- (2) must have resided in this state for the preceding six months;
- (3) must have successfully completed an owner-builder education class; and
- (4) must agree to:
 - (A) provide at least 60 percent of the labor necessary to build or rehabilitate the proposed housing by working through a certified Nonprofit Owner-Builder Housing Organizations; or

(B) provide an amount of labor equivalent to the amount required in connection with building or rehabilitating housing for others through a certified Nonprofit Owner-Builder Housing Organization;

(C) TDHCA may select Nonprofit Owner-Builder Housing Organizations to certify the eligibility of Owner-Builders to receive a loan. A certified Owner-Builder Nonprofit Housing Organization selected by TDHCA shall use the eligibility requirements established by TDHCA to certify the eligibility of an Owner-Builder for this program.

Applicants who have received a Program award in the past must have, as of November 17, 2006 100% of all applicants deemed eligible and must have expended and/or have under construction seventy-five percent (75%) of its previous award to be considered under this NOFA.

General Information for NOFA:

At a minimum, the following criteria must be satisfied in the Application for the Texas Bootstrap Loan Program fund. The applicable criteria is further delineated in the Application guidelines, which is part of the application package.

(1) Needs Assessment--Whether the proposed project meets the demographic, economic and special need characteristics of the population residing in an underserved area (colonia or Economically Distressed County as defined within the application). Provide qualitative and quantitative information, market study, if approved to determine the need of the Texas Bootstrap Loan Program.

(2) Operational Capability and Experience of Applicant--Whether the Applicant has the capacity to administer and manage the proposed program/project, demonstrated through previous experience either by the Applicant, cooperating entity or key staff (including other contracted service providers), in program management, managing self-help housing, volunteer labor projects involving acquisition, rehabilitation, reconstruction, new construction, home buyer education classes, real estate finance counseling and training or other activities relevant to the proposed program.

(3) Financial Design. Applications for funding will be reviewed for written evidence of the capacity to maintain financial systems, including the responsibility of accounting staff. The Application must adequately describe the lead Applicants and co-Applicants financial standing for the last three years. The review will be based on the supporting financial data provided by Applicants and third party reports such as financial statements and audits submitted with the Application. Submission of "Independent Auditor's Report" dated within 12 months of application deadline date, describing the financial standing of the applicant within the last three years. Report must show evidence of Applicant's capacity to maintain an effective financial system, and the extent to which Applicant has the capability to manage financial resources, as evidenced by previous experience, documentation of the Applicant or key staff, and existing financial control procedures.

(4) Leveraging of public and/or private resources. Does the applicant and/or co-applicant have private-sector support for the project from community and/or neighborhood organizations, local businesses and commercial lenders or private individuals as well as units of local government.

(5) Program Design. Applications for funding will be reviewed for written evidence of how the Owner-Builders will meet the 60% sweat equity requirement. Applicant must describe in detail how the program guidelines will be used to identify and prioritize families earning less than \$17,500. In addition Applicants must provide specific development plans, program schedules and performance benchmarks that will enable them to build units within a 24 month contract.

Applications will then be scored based on Income Targeting, Previous Awards, Past Performance and First Time Applicants, Letters of Support, Readiness to Proceed, Level of Homebuyer Counseling, Lien Position, Operation Capability and Experience and Program Design. TDHCA desires to select a diverse group of state certified NOHP's that will serve various populations throughout the state.

The NOHP state certification application can be downloaded from TDHCA's web-site located at <http://www.tdhca.state.tx.us/oci/documents/NOHPCertificationWebsite.pdf>. In addition, applicants for this program are encouraged to download the Texas Bootstrap Loan Program application from TDHCA's web-site located at <http://www.tdhca.state.tx.us/oci/bootstrap.jsp>. Applicants may also request a hard copy version of the application. Application packages will be transmitted via first class U.S. Postal Service unless applicants request transmittal via overnight courier and provide the name and account number of their desired courier.

TDHCA's Board of Directors reserves the right to change the award amount, and to award less than the requested amount.

Applications must be received at TDHCA on or before 5:00 p.m., Friday November 17, 2006.

FAXED APPLICATIONS WILL NOT BE ACCEPTED.

All interested parties are encouraged to participate in this program. Applications will be available on October 27, 2006. Technical assistance for this application will be provided during October 27, 2006 thru November 17, 2006. For additional information or to request an application package, please call Raul Gonzales with the Office of Colonia Initiatives at (800) 462-4251, check TDHCA's web-site at www.tdhca.state.tx.us or e-mail your request to raul.gonzales@tdhca.state.tx.us. Please direct your applications to:

Texas Department of Housing and Community Affairs

ATTN: Office of Colonia Initiatives

Post Office Box 13941

Austin, Texas 78711-3941

Or by courier to:

221 East 11th Street

Austin, Texas 78701

TRD-200605603

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Filed: October 16, 2006

Texas Lottery Commission

Instant Game Number 748 "Wild Winnings"

1.0 Name and Style of Game.

A. The name of Instant Game No. 748 is "WILD WINNINGS". The play style for GAME 1 is "match 3". The play style for GAME 2 is "key number match". The play style for GAME 3 is "key symbol match". The play style for GAME 4 is "yours beats theirs". The play style for GAME 5 is "three in a line".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 748 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 748.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$500, \$1,000, \$5,000, \$50,000, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,

15, 16, 17, 18, 19, 20, GOLD BAR SYMBOL, COIN SYMBOL, MONEY BAG SYMBOL, STACK OF BILLS SYMBOL, DOLLAR SIGN SYMBOL, CLOVER SYMBOL, DIAMOND SYMBOL, X SYMBOL and O SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 748 - 1.2D

| PLAY SYMBOL | CAPTION |
|-----------------------|----------|
| \$1.00 | ONE\$ |
| \$2.00 | TWO\$ |
| \$4.00 | FOUR\$ |
| \$5.00 | FIVE\$ |
| \$10.00 | TEN\$ |
| \$15.00 | FIFTN |
| \$20.00 | TWENTY |
| \$50.00 | FIFTY |
| \$100 | ONE HUND |
| \$500 | FIV HUND |
| \$1,000 | ONE THOU |
| \$5,000 | FIV THOU |
| \$50,000 | 50 THOU |
| 1 | ONE |
| 2 | TWO |
| 3 | THR |
| 4 | FOR |
| 5 | FIV |
| 6 | SIX |
| 7 | SVN |
| 8 | EGT |
| 9 | NIN |
| 10 | TEN |
| 11 | ELV |
| 12 | TLV |
| 13 | TRN |
| 14 | FTN |
| 15 | FFN |
| 16 | SXN |
| 17 | SVT |
| 18 | ETN |
| 19 | NTN |
| 20 | TWY |
| GOLD BAR SYMBOL | GOLD |
| COIN SYMBOL | COIN |
| MONEY BAG SYMBOL | \$BAG |
| STACK OF BILLS SYMBOL | BILLS |
| DOLLAR SIGN SYMBOL | MONEY |
| CLOVER SYMBOL | CLVR |
| DIAMOND SYMBOL | DIAMD |
| X SYMBOL | |
| O SYMBOL | |

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 748 - 1.2E

| CODE | PRIZE |
|-------------|----------------|
| FIV | \$5.00 |
| TEN | \$10.00 |
| FTN | \$15.00 |
| TWN | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

I. High-Tier Prize - A prize of \$1,000, \$5,000 or \$50,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (748), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 748-0000001-001.

L. Pack - A pack of "WILD WINNINGS" Instant Game tickets contains 75 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of ticket 001 and front of 075.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "WILD WINNINGS" Instant Game No. 748 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "WILD WINNINGS" Instant Game is determined once the latex on the ticket is scratched off to expose 44 (forty-four)

Play Symbols. For GAME 1, a player must scratch the stack of coins and if a player reveals (3) three matching amount play symbols, the player wins that amount. For GAME 2, if any of YOUR NUMBERS play symbols match the WINNING NUMBER play symbol, the player wins the PRIZE shown for that number. For GAME 3, if a player reveals (3) three matching play symbols, the player wins the PRIZE shown in prize box. For GAME 4, if YOUR NUMBER play symbol is higher than THEIR NUMBER play symbol in the same row, the player wins the PRIZE shown for that row. For GAME 5, if a player reveals 3 X's or 3 O's in the same row, column or diagonal line, the player wins the PRIZE shown in prize box. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 44 (forty-four) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 44 (forty-four) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 44 (forty-four) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 44 (forty-four) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. Non-winning prize symbols will never be the same as the winning prize symbol(s) within a game.

C. GAME 1: No three pairs.

D. GAME 1: No four or more of a kind.

E. GAME 2: No duplicate non-winning prize symbols.

F. GAME 2: No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

G. GAME 2: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 10 and \$10).

H. GAME 3: No four or more like play symbols.

I. GAME 4: No duplicate non-winning YOURS play symbols.

J. GAME 4: No duplicate non-winning THEIRS play symbols.

K. GAME 4: No duplicate non-winning prize symbols.

L. GAME 4: No ties within a row.

M. GAME 5: All games will contain four X's and five O's or five X's and four O's.

2.3 Procedure for Claiming Prizes.

A. To claim a "WILD WINNINGS" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "WILD WINNINGS" Instant Game prize of \$1,000, \$5,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "WILD WINNINGS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "WILD WINNINGS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "WILD WINNINGS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 748. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 748 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|--------------|--------------------------------|------------------------------|
| \$5 | 800,000 | 7.50 |
| \$10 | 400,000 | 15.00 |
| \$15 | 160,000 | 37.50 |
| \$20 | 160,000 | 37.50 |
| \$50 | 80,000 | 75.00 |
| \$100 | 14,000 | 428.57 |
| \$500 | 1,000 | 6,000.00 |
| \$1,000 | 250 | 24,000.00 |
| \$5,000 | 50 | 120,000.00 |
| \$50,000 | 8 | 750,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.71. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 748 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 748, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.



Instant Game Number 757 "Mega Slots"

1.0 Name and Style of Game.

A. The name of Instant Game No. 757 is "MEGA SLOTS". The play style is "key symbol match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 757 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 757.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: COIN SYMBOL, DIAMOND SYMBOL, CROWN SYMBOL, STAR SYMBOL, STACK OF BILLS SYMBOL, BELL SYMBOL, 7 SYMBOL, GOLD BAR SYMBOL and 5X SYMBOL.

D. Play Symbol Caption - the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 757 - 1.2D

| PLAY SYMBOL | CAPTION |
|-----------------------|---------|
| COIN SYMBOL | COIN |
| DIAMOND SYMBOL | DMND |
| CROWN SYMBOL | CROWN |
| STAR SYMBOL | STAR |
| STACK OF BILLS SYMBOL | MONEY |
| BELL SYMBOL | BELL |
| 7 SYMBOL | SEVEN |
| GOLD BAR SYMBOL | BAR |
| 5X SYMBOL | WINX5 |

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 757 - 1.2E

| CODE | PRIZE |
|------|---------|
| FIV | \$5.00 |
| TEN | \$10.00 |
| FTN | \$15.00 |

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$5.00, \$10.00 or \$15.00.

H. Mid-Tier Prize - A prize of \$25.00, \$50.00, \$100, \$200 or \$500.

I. High-Tier Prize - A prize of \$1,000, \$5,000, \$10,000 or \$50,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (757), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 757-0000001-001.

L. Pack - A pack of "MEGA SLOTS" Instant Game tickets contains 75 tickets, packed in plastic shrink-wrapping and fanfolded in pages of

one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of ticket 001 and front of 075.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "MEGA SLOTS" Instant Game No. 757 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "MEGA SLOTS" Instant Game is determined once the latex on the ticket is scratched off to expose 48 (forty-eight) play symbols. In each Game, if a player reveals three (3) matching play symbols within a Pull, the player wins prize indicated in legend. If a player reveals two (2) matching play symbols and a "5X" play symbol within a Pull, the player wins five (5) TIMES the prize shown in legend. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 48 (forty-eight) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 48 (forty-eight) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 48 (forty-eight) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 48 (forty-eight) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No four or more matching non-winning play symbols horizontally on a ticket (across 2 games).

C. No three matching non-winning play symbols will appear vertically or diagonally within a game.

D. The "5X" multiplier symbol will only appear once and only on intended winning tickets as dictated by the prize structure.

E. No duplicate non-winning pulls in the exact same order will be adjacent to each other on a ticket (i.e. above and below and/or side by side).

F. No four or more matching non-winning play symbols within a game.

2.3 Procedure for Claiming Prizes.

A. To claim a "MEGA SLOTS" Instant Game prize of \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$25.00, \$50.00, \$100, \$200 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant

with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "MEGA SLOTS" Instant Game prize of \$1,000, \$5,000, \$10,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "MEGA SLOTS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "MEGA SLOTS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "MEGA SLOTS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 757. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 757 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$5 | 1,120,000 | 5.36 |
| \$10 | 240,000 | 25.00 |
| \$15 | 100,000 | 60.00 |
| \$25 | 120,000 | 50.00 |
| \$50 | 48,000 | 125.00 |
| \$100 | 18,500 | 324.32 |
| \$200 | 5,000 | 1,200.00 |
| \$500 | 2,800 | 2,142.86 |
| \$1,000 | 850 | 7,058.82 |
| \$5,000 | 8 | 750,000.00 |
| \$10,000 | 6 | 1,000,000.00 |
| \$50,000 | 6 | 1,000,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.63. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 757 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 757, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200605669

Kimberly Kiplin

General Counsel

Texas Lottery Commission

Filed: October 18, 2006



Instant Game Number 759 "\$50,000 Celebr8tion"

1.0 Name and Style of Game.

A. The name of Instant Game No. 759 is "\$50,000 CELEBR8TION". The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 759 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 759.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 8X, \$1.00, \$2.00, \$4.00, \$5.00, \$8.00, \$10.00, \$15.00, \$18.00, \$20.00, \$25.00, \$40.00, \$48.00, \$50.00, \$100, \$500, \$1,000, and \$50,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 759 - 1.2D

| PLAY SYMBOL | CAPTION |
|-------------|-----------|
| 1 | ONE |
| 2 | TWO |
| 3 | THR |
| 4 | FOR |
| 5 | FIV |
| 6 | SIX |
| 7 | SVN |
| 9 | NIN |
| 10 | TEN |
| 11 | ELV |
| 12 | TLV |
| 13 | TRN |
| 14 | FTN |
| 15 | FFN |
| 16 | SXN |
| 17 | SVT |
| 19 | NTN |
| 20 | TWY |
| 21 | TWON |
| 22 | TWTO |
| 23 | THTH |
| 24 | TWFR |
| 25 | TWFO |
| 26 | TWSX |
| 27 | TWSV |
| 29 | TWNI |
| 30 | TRTY |
| 31 | TRON |
| 32 | TRTO |
| 33 | TRTH |
| 34 | TRFR |
| 35 | TRFO |
| 36 | TRSX |
| 37 | TRSV |
| 39 | TRNI |
| 40 | FRTY |
| 8X SYMBOL | 8XWIN |
| \$1.00 | ONE\$ |
| \$2.00 | TWO\$ |
| \$4.00 | FOUR\$ |
| \$5.00 | FIVE\$ |
| \$8.00 | EIGHT\$ |
| \$10.00 | TEN\$ |
| \$15.00 | FIFTEEN\$ |
| \$18.00 | EIGHTEEN |
| \$20.00 | TWENTY |

| | |
|----------|----------|
| \$25.00 | TWY FIVE |
| \$40.00 | FORTY |
| \$48.00 | FTY EGT |
| \$50.00 | FIFTY |
| \$100 | ONE HUND |
| \$500 | FIV HUND |
| \$1,000 | ONE THOU |
| \$50,000 | 50 THOU |

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 759 - 1.2E

| CODE | PRIZE |
|-------------|----------------|
| FIV | \$5.00 |
| EGT | \$8.00 |
| TEN | \$10.00 |
| EHT | \$18.00 |
| TWN | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$5.00, \$8.00, \$10.00, \$18.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$48.00, \$100, or \$500.

I. High-Tier Prize - A prize of \$1,000, \$5,000, or \$50,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number, and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (759), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 759-0000001-001.

L. Pack - A pack of "\$50,000 CELEBR8TION" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded

in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of 001 and front 075.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "\$50,000 CELEBR8TION" Instant Game No. 759 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "\$50,000 CELEBR8TION" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the CASH NUMBERS play symbols, the player wins the prize shown for that number. If a player reveals an "8X" play symbol, the player wins eight (8) TIMES the amount for that symbol. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
 3. Each of the Play Symbols must be present in its entirety and be fully legible;
 4. Each of the Play Symbols must be printed in black ink except for dual image games;
 5. The ticket shall be intact;
 6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
 7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
 8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
 9. The ticket must not be counterfeit in whole or in part;
 10. The ticket must have been issued by the Texas Lottery in an authorized manner;
 11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
 12. The Play Symbols, Serial Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;
 13. The ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
 14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
 15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
 16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
 17. Each of the 45 (forty-five) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
 18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
 19. The ticket must have been received by the Texas Lottery by applicable deadlines.
- B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.
- C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the

Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. Consecutive non-winning tickets will not have identical play data, spot for spot.
- B. No more than two (2) matching non-winning prize symbols will appear on a ticket.
- C. The "8X" (prize x 8) play symbol will only appear on winning tickets as dictated by the prize structure.
- D. No duplicate CASH NUMBERS play symbols on a ticket.
- E. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.
- F. Non-winning prize symbols will never be the same as the winning prize symbol(s).
- G. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e., 5 and \$5).

2.3 Procedure for Claiming Prizes.

A. To claim a "\$50,000 CELEBR8TION" Instant Game prize of \$5.00, \$8.00, \$10.00, \$18.00, \$20.00, \$48.00, \$100, or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$48.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$50,000 CELEBR8TION" Instant Game prize of \$1,000, \$5,000, or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$50,000 CELEBR8TION" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Office of the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "\$50,000 CELEBR8TION" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "\$50,000 CELEBR8TION" Instant Game, the

Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 759. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 759 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$5 | 880,000 | 6.82 |
| \$8 | 160,000 | 37.50 |
| \$10 | 320,000 | 18.75 |
| \$18 | 120,000 | 50.00 |
| \$20 | 140,000 | 42.86 |
| \$48 | 80,000 | 75.00 |
| \$100 | 16,650 | 360.36 |
| \$500 | 850 | 7,058.82 |
| \$1,000 | 200 | 30,000.00 |
| \$5,000 | 26 | 230,769.23 |
| \$50,000 | 6 | 1,000,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.49. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 759 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 759, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-200605638
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: October 17, 2006



Instant Game Number 763 "Royal Riches"

1.0 Name and Style of Game.

A. The name of Instant Game No. 763 is "ROYAL RICHES". The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 763 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 763.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 5X, \$1.00, \$2.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$200, \$1,000, \$5,000, and \$50,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 763 - 1.2D

| PLAY SYMBOL | CAPTION |
|-------------|----------|
| 1 | ONE |
| 2 | TWO |
| 3 | THR |
| 4 | FOR |
| 6 | SIX |
| 7 | SVN |
| 8 | EGT |
| 9 | NIN |
| 10 | TEN |
| 11 | ELV |
| 12 | TLV |
| 13 | TRN |
| 14 | FTN |
| 15 | FFN |
| 16 | SXN |
| 17 | SVT |
| 18 | ETN |
| 19 | NTN |
| 20 | TWY |
| 21 | TWON |
| 22 | TWTO |
| 23 | TWTH |
| 24 | TWFR |
| 25 | TWV |
| 26 | TWSX |
| 27 | TWSV |
| 28 | TWET |
| 29 | TWNI |
| 30 | TRTY |
| 31 | TRON |
| 32 | TRTO |
| 33 | TRTH |
| 34 | TRFR |
| 35 | TRFV |
| 36 | TRSX |
| 37 | TRSV |
| 38 | TRET |
| 39 | TRNI |
| 5X SYMBOL | WINX5 |
| \$1.00 | ONE\$ |
| \$2.00 | TWO\$ |
| \$5.00 | FIVE\$ |
| \$10.00 | TEN\$ |
| \$20.00 | TWENTY |
| \$50.00 | FIFTY |
| \$100 | ONE HUND |

| | |
|-----------------|-----------------|
| \$200 | TWO HUND |
| \$1,000 | ONE THOU |
| \$5,000 | FIV THOU |
| \$50,000 | 50 THOU |

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 763 - 1.2E

| CODE | PRIZE |
|-------------|----------------|
| FIV | \$5.00 |
| TEN | \$10.00 |
| TWN | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$5.00, \$10.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00, \$100, \$200, or \$500.

I. High-Tier Prize - A prize of \$1,000, \$5,000, or \$50,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number, and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (763), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 763-0000001-001.

L. Pack - A pack of "ROYAL RICHES" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of 001 and front 075.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "ROYAL RICHES" Instant Game No. 763 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "ROYAL RICHES" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE shown for that number. If a player reveals a "5X" play symbol, the player wins five (5) times the PRIZE shown instantly. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code, and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;

16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 45 (forty-five) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. The "5X" multiplier symbol will only appear once on intended winning tickets and only as dictated by the prize structure.

C. No more than three (3) identical non-winning prize symbols will appear on a ticket.

D. No duplicate WINNING NUMBERS play symbols on a ticket.

E. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

F. Non-winning prize symbols will never be the same as the winning prize symbol(s).

G. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e., 10 and \$10).

2.3 Procedure for Claiming Prizes.

A. To claim a "ROYAL RICHES" Instant Game prize of \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$200, or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00, \$100, \$200, or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "ROYAL RICHES" Instant Game prize of \$1,000, \$5,000, or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "ROYAL RICHES" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Office of the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "ROYAL RICHES" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "ROYAL RICHES" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales, and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 763. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 763 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$5 | 1,560,000 | 3.85 |
| \$10 | 140,000 | 42.86 |
| \$20 | 100,000 | 60.00 |
| \$50 | 77,600 | 77.32 |
| \$100 | 30,000 | 200.00 |
| \$200 | 3,000 | 2,000.00 |
| \$500 | 1,800 | 3,333.33 |
| \$1,000 | 55 | 109,090.91 |
| \$5,000 | 33 | 181,818.18 |
| \$50,000 | 12 | 500,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.14. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 763 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 763, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-200605639
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: October 17, 2006



Instant Game Number 776 "Spread the Wealth"

1.0 Name and Style of Game.

A. The name of Instant Game No. 776 is "SPREAD THE WEALTH".
The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 776 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 776.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 5X, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$500, \$1,000 and \$50,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 776 - 1.2D

| PLAY SYMBOL | CAPTION |
|-------------|---------|
| 1 | ONE |
| 2 | TWO |
| 3 | THR |
| 4 | FOR |
| 6 | SIX |
| 7 | SVN |
| 8 | EGT |
| 9 | NIN |
| 10 | TEN |
| 11 | ELV |
| 12 | TLV |
| 13 | TRN |
| 14 | FTN |
| 15 | FFN |
| 16 | SXN |
| 17 | SVT |
| 18 | ETN |
| 19 | NTN |
| 20 | TWY |
| 21 | TWON |
| 22 | TWTO |
| 23 | TWTH |
| 24 | TWFR |
| 25 | TWV |
| 26 | TWSX |
| 27 | TWSV |
| 28 | TWET |
| 29 | TWNI |
| 30 | TRTY |
| 31 | TRON |
| 32 | TRTO |
| 33 | TRTH |
| 34 | TRFR |
| 35 | TRFV |
| 36 | TRSX |
| 37 | TRSV |
| 38 | TRET |
| 39 | TRNI |
| 5X SYMBOL | WINX5 |
| \$1.00 | ONE\$ |
| \$2.00 | TWO\$ |
| \$4.00 | FOUR\$ |
| \$5.00 | FIVE\$ |
| \$10.00 | TEN\$ |
| \$15.00 | FIFTN |
| \$20.00 | TWENTY |

| | |
|----------|----------|
| \$25.00 | TWY FIV |
| \$40.00 | FORTY |
| \$50.00 | FIFTY |
| \$100 | ONE HUND |
| \$500 | FIV HUND |
| \$1,000 | ONE THOU |
| \$50,000 | 50 THOU |

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 776 - 1.2E

| CODE | PRIZE |
|------|---------|
| FIV | \$5.00 |
| TEN | \$10.00 |
| FTN | \$15.00 |
| TWN | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

I. High-Tier Prize - A prize of \$1,000, \$5,000 or \$50,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (776), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 776-0000001-001.

L. Pack - A pack of "SPREAD THE WEALTH" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of 001 and front 075.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "SPREAD THE WEALTH" Instant Game No. 776 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "SPREAD THE WEALTH" Instant Game is determined once the latex on the ticket is scratched off to expose 44 (forty-four) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the prize shown for that number. If a player reveals a "5X" play symbol, the player wins five (5) TIMES the prize shown for that symbol. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

- Exactly 44 (forty-four) Play Symbols must appear under the latex overprint on the front portion of the ticket;
- Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
- Each of the Play Symbols must be present in its entirety and be fully legible;
- Each of the Play Symbols must be printed in black ink except for dual image games;
- The ticket shall be intact;
- The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
- The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
- The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 44 (forty-four) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 44 (forty-four) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 44 (forty-four) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. The "5X" multiplier symbol will only appear once on intended winning tickets and only as dictated by the prize structure.

C. No more than three (3) identical non-winning prize symbols will appear on a ticket.

D. No duplicate WINNING NUMBERS play symbols on a ticket.

E. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

F. Non-winning prize symbols will never be the same as the winning prize symbol(s).

G. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 10 and \$10).

2.3 Procedure for Claiming Prizes.

A. To claim a "SPREAD THE WEALTH" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "SPREAD THE WEALTH" Instant Game prize of \$1,000, \$5,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "SPREAD THE WEALTH" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
 2. delinquent in making child support payments administered or collected by the Attorney General;
 3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
 4. in default on a loan made under Chapter 52, Education Code; or
 5. in default on a loan guaranteed under Chapter 57, Education Code.
- E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "SPREAD THE WEALTH" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "SPREAD THE WEALTH" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

Figure 3: GAME NO. 776 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|---------------------|---------------------------------------|------------------------------------|
| \$5 | 1,120,000 | 5.36 |
| \$10 | 400,000 | 15.00 |
| \$15 | 160,000 | 37.50 |
| \$20 | 120,000 | 50.00 |
| \$50 | 80,000 | 75.00 |
| \$100 | 9,850 | 609.14 |
| \$500 | 750 | 8,000.00 |
| \$1,000 | 150 | 40,000.00 |
| \$5,000 | 17 | 352,941.18 |
| \$50,000 | 8 | 750,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.17. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 776 with-

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 776. The approximate number and value of prizes in the game are as follows: Table 3 of this section

out advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 776, the State Lottery Act (Texas Government Code,

Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200605671
Kimberly Kiplin
General Counsel
Texas Lottery Commission
Filed: October 18, 2006



Instant Game Number 781 "Lucky 7's"

1.0 Name and Style of Game.

A. The name of Instant Game No. 781 is "LUCKY 7'S". The play style is "three in a line".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 781 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 781.

Figure 1: GAME NO. 781 - 1.2D

| PLAY SYMBOL | CAPTION |
|-------------|----------|
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| \$1.00 | ONE\$ |
| \$2.00 | TWO\$ |
| \$3.00 | THREE\$ |
| \$5.00 | FIVE\$ |
| \$7.00 | SEVEN\$ |
| \$11.00 | ELEVEN |
| \$17.00 | SVNTN |
| \$20.00 | TWENTY |
| \$27.00 | TWY SVN |
| \$47.00 | FRY SVN |
| \$77.00 | SVY SVN |
| \$100 | ONE HUND |
| \$177 | ONSVSN |
| \$1,000 | ONE THOU |

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for validation purposes and cannot be used to play the game. The possible validation codes are:

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 2, 3, 4, 5, 6, 7, 8, 9, \$1.00, \$2.00, \$3.00, \$5.00, \$7.00, \$11.00, \$17.00, \$20.00, \$27.00, \$47.00, \$77.00, \$100, \$177 or \$1,000.

D. Play Symbol Caption - the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 2: GAME NO. 781 - 1.2E

| CODE | PRIZE |
|------|---------|
| ONE | \$1.00 |
| TWO | \$2.00 |
| THR | \$3.00 |
| FIV | \$5.00 |
| SVN | \$7.00 |
| ELV | \$11.00 |
| SVT | \$17.00 |
| TWN | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$3.00, \$5.00, \$7.00, \$11.00, \$17.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$27.00, \$47.00, \$77.00, \$100 or \$177.

I. High-Tier Prize - A prize of \$1,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (781), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 250 within each pack. The format will be: 781-0000001-001.

L. Pack - A pack of "LUCKY 7'S" Instant Game tickets contains 250 tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; tickets 006 and 010 on the next page; etc.; and tickets 246 to 250 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of ticket 001 and 010 will be exposed.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "LUCKY 7'S" Instant Game No. 781 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in

Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "LUCKY 7'S" Instant Game is determined once the latex on the ticket is scratched off to expose 10 (ten) Play Symbols. If a player reveals three (3) 7's play symbols in any one row, column or diagonal, the player wins prize shown in PRIZE BOX. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 10 (ten) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 10 (ten) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 10 (ten) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 10 (ten) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No ticket will contain 3 or more of a kind other than the 7 symbol.

C. A ticket may only win once.

2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY 7'S" Instant Game prize of \$1.00, \$2.00, \$3.00, \$5.00, \$7.00, \$11.00, \$17.00, \$20.00, \$27.00, \$47.00, \$77.00, \$100 or \$177, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$27.00, \$47.00, \$77.00, \$100 or \$177, ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LUCKY 7'S" Instant Game prize of \$1,000, the claimant must sign the winning ticket and present it at one of the Texas Lot-

tery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "LUCKY 7'S" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "LUCKY 7'S" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "LUCKY 7'S" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or

within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature

appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 10,080,000 tickets in the Instant Game No. 781. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 781 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$1 | 1,008,000 | 10.00 |
| \$2 | 725,760 | 13.89 |
| \$3 | 201,600 | 50.00 |
| \$5 | 60,480 | 166.67 |
| \$7 | 60,480 | 166.67 |
| \$11 | 20,160 | 500.00 |
| \$17 | 20,160 | 500.00 |
| \$20 | 20,160 | 500.00 |
| \$27 | 8,400 | 1,200.00 |
| \$47 | 4,662 | 2,162.16 |
| \$77 | 3,360 | 3,000.00 |
| \$100 | 2,310 | 4,363.64 |
| \$177 | 1,050 | 9,600.00 |
| \$1,000 | 168 | 60,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.72. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 781 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 781, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200605673

Kimberly Kiplin
General Counsel
Texas Lottery Commission
Filed: October 18, 2006



Instant Number 821 "9's in a Line"

1.0 Name and Style of Game.

A. The name of Instant Game No. 821 is "9'S IN A LINE". The play style is "three in a line".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 821 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 821.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 2, 3, 4, 5, 6,

7, 8, 9, \$1.00, \$2.00, \$3.00, \$9.00, \$19.00, \$49.00, \$99.00, \$199, and \$900.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 821 - 1.2D

| PLAY SYMBOL | CAPTION |
|--------------------|----------------|
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| \$1.00 | ONE\$ |
| \$2.00 | TWO\$ |
| \$3.00 | THREE\$ |
| \$9.00 | NINE\$ |
| \$19.00 | NINTN |
| \$49.00 | FRYNIN |
| \$99.00 | NTYNIN |
| \$199 | ONNYNN |
| \$900 | NINHUN |

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 821 - 1.2E

| CODE | PRIZE |
|-------------|--------------|
| ONE | \$1.00 |
| TWO | \$2.00 |
| THR | \$3.00 |
| NIN | \$9.00 |
| NNT | \$19.00 |

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Se-

rial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$3.00, \$9.00, or \$19.00.

H. Mid-Tier Prize - A prize of \$49.00, \$99, or \$199.

I. High-Tier Prize - A prize of \$900.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number, and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (821), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 250 within each pack. The format will be: 821-0000001-001.

L. Pack - A pack of "9'S IN A LINE" Instant Game tickets contains 250 tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; tickets 006 and 010 on the next page, etc.; and tickets 246 to 250 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of ticket 001 and 010 will be exposed.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "9'S IN A LINE" Instant Game No. 821 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "9'S IN A LINE" Instant Game is determined once the latex on the ticket is scratched off to expose 10 (ten) Play Symbols. If a player finds three (3) 9's play symbols in any one row, column or diagonal, the player wins prize. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 10 (ten) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code, and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 10 (ten) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;

16. Each of the 10 (ten) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 10 (ten) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No ticket will contain three or more of a kind other than the 9 symbol.

2.3 Procedure for Claiming Prizes.

A. To claim a "9'S IN A LINE" Instant Game prize of \$1.00, \$2.00, \$3.00, \$9.00, \$19.00, \$49.00, \$99.00, or \$199, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$49.00, \$99.00, or \$199

ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "9'S IN A LINE" Instant Game prize of \$900, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "9'S IN A LINE" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Office of the Attorney General;
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "9'S IN A LINE" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "9'S IN A LINE" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales, and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 20,160,000 tickets in the Instant Game No. 821. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 821 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$1 | 2,016,000 | 10.00 |
| \$2 | 1,370,880 | 14.71 |
| \$3 | 645,120 | 31.25 |
| \$9 | 161,280 | 125.00 |
| \$19 | 80,640 | 250.00 |
| \$49 | 23,940 | 842.11 |
| \$99 | 5,628 | 3,582.09 |
| \$199 | 2,688 | 7,500.00 |
| \$900 | 168 | 120,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.68. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 821 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 821, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-200605640
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: October 17, 2006

North Central Texas Council of Governments

Request for Proposal

Through its regional solid waste management program, NCTCOG intends to seek professional consulting services for North Central Texas Disaster Debris Management Workshops. The Request for Proposal is not to exceed \$75,000.00.

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provision of Government Code, Chapter 2254.

Contract Award Procedures: The project will have an oversight subcommittee that will recommend the firm selected to perform the workshops. The oversight subcommittees will use evaluation criteria consistent with the scope of services contained in the RFP. The NCTCOG Executive Board will review the recommendation made by the subcommittee, and if found acceptable, will award the contract.

A consultant briefing will be held on Wednesday, November 8, 2006, at 1:30 p.m., in the NCTCOG offices. Copies of the Requests for Proposal will be available at <http://www.nctcog.org/envir/SEELT/index.asp>.

Closing Date: Proposals must be submitted no later than close of business on Wednesday, November 29, 2006, to the North Central Texas Council of Governments, Department of Environment and Development, 616 Six Flags Drive, Suite 200, Arlington, Texas 76011, or P.O. Box 5888, Arlington, Texas 76005-5888.

Questions may be directed to Patricia Redfearn, Ph.D., Environment and Development Planner III, (817) 608-2360 or redfearn@nctcog.org.

TRD-200605630
Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: October 17, 2006

Panhandle Regional Planning Commission

Request for Proposals

The Panhandle Regional Planning Commission (PRPC) is seeking proposals for leased space to house the Panhandle WorkSource Child Care Services, which provides supportive child care services for the area Workforce Development Programs and assists low-income parents with their child care needs. The property must be located in downtown Amarillo, Texas, and offer approximately 10,000 sq. ft. of contiguous space that can be appropriately configured for business/professional use. A copy of the Request for Proposals can be obtained by contacting Leslie Hardin, PRPC's Workforce Development Facilities Coordinator, at (806) 372-3381 or lhartin@theprpc.org. Proposals must be received at PRPC by 3:00 p.m. on November 3, 2006.

TRD-200605568

Leslie Hardin
Facilities Coordinator
Panhandle Regional Planning Commission
Filed: October 12, 2006

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Public Utility Commission of Texas

**Announcement of Application for Amendment to a
State-Issued Certificate of Franchise Authority**

The Public Utility Commission of Texas received an application on October 12, 2006, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Time Warner Cable for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 33342 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33342.

TRD-200605611
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 16, 2006

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**Announcement of Application for State-Issued Certificate of
Franchise Authority**

The Public Utility Commission of Texas received an application on October 13, 2006, for a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Project Title and Number: Application of Cameron Communications, L.L.C. for a State-Issued Certificate of Franchise Authority, Project Number 33364 before the Public Utility Commission of Texas.

Applicant intends to provide video service. The requested CFA service area includes the Gilchrist, High Island, and Nome, Texas local exchange serving areas of Cameron Telephone Company, L.L.C.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33364.

TRD-200605656
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006

**Notice of Application for a Certificate to Provide Retail
Electric Service**

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 9, 2006, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Hwy 3 MHP, LLC for Retail Electric Provider (REP) Certification, Docket Number 33325 before the Public Utility Commission of Texas.

Applicant's requested service area by geography includes the service area of specific transmission and distribution utilities and/or municipal utilities or electric cooperatives in which competition is offered, as follows: Centerpoint Energy and Texas-New Mexico Power.

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than November 3, 2006. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33325.

TRD-200605584
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 13, 2006

◆ ◆ ◆
**Notice of Application for a Certificate to Provide Retail
Electric Service**

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 11, 2006, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Liberty Power Holdings LLC for Retail Electric Provider (REP) certification, Docket Number 33339 before the Public Utility Commission of Texas.

Applicant's requested service area is a specific area of transmission and distribution utilities and/or municipal utilities or electric cooperatives in which competition is offered, as follows: Centerpoint, TXU, AEP, AEP North, Texas-New Mexico Power.

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than November 3, 2006. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33339.

TRD-200605610
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 16, 2006

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**Notice of Application for Amendment to a State-Issued
Certificate of Franchise Authority**

The Public Utility Commission of Texas received an application on October 10, 2006, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Project Title and Number: Application of Rapid Acquisition Company, LLC for an Amendment to its State-Issued Certificate of Franchise Authority for the City Limits of Mason within the State of Texas, Project Number 33333 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33333.

TRD-200605587
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 13, 2006



Notice of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on October 10, 2006, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Project Title and Number: Application of Rapid Acquisition Company, LLC for an Amendment to its State-Issued Certificate of Franchise Authority for the City Limits of Higgins within the State of Texas, Project Number 33334 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33334.

TRD-200605588
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 13, 2006



Notice of Application for Amendment to Service Provider Certificate of Operating Authority

On October 9, 2006, Southern Telcom Network filed an application with the Public Utility Commission of Texas (commission) to amend its service provider certificate of operating authority (SPCOA) granted in SPCOA Certificate Number 60459. Applicant intends to reflect a change in ownership/control, a name change, and an addition to its service area.

The Application: Application of Southern Telcom Network for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 33338.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than November 1, 2006. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33338.

TRD-200605658
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 13, 2006, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Extenet Systems, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 33365 before the Public Utility Commission of Texas.

Applicant intends to provide optical services. Applicant's requested SPCOA geographic area includes the entire State of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than November 1, 2006. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33365.

TRD-200605657
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing on October 10, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 20, 2006. The area of implementation for these services are those exchanges formerly served by Contel of Texas, Inc.

Docket Title and Number: Application of Kerrville Telephone Company for Approval of LRIC Study for New Business and Residential Packages/Bundled Offerings Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33331.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33331. Written comments or recommendations should be filed no later than forty-five (45) days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin,

Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33331.

TRD-200605585
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 13, 2006



Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214

Notice is given to the public of the filing on October 10, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 20, 2006. The area of implementation for these services are those exchanges formerly served by GTE Southwest, Inc.

Docket Title and Number: Application of Valor Telecommunications of Texas for Approval of LRIC Study for New Business and Residential Packages/Bundled Offerings Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33332.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33332. Written comments or recommendations should be filed no later than forty-five (45) days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33332.

TRD-200605586
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 13, 2006



Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (Commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of Northwest Louisiana, Incorporated for Approval of LRIC Study for Additional Bill Copy Charge Pursuant to P.U.C. Substantive Rule, Docket Number 33354.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33354. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-

3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33354.

TRD-200605641
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of San Marcos, Incorporated for Approval of LRIC Study for Additional Bill Copy Charge Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33355.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33355. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33355.

TRD-200605642
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of Port Aransas, Incorporated for Approval of LRIC Study for Additional Bill Copy Charge Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33356.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33356. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY)

may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33356.

TRD-200605643
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of Lake Dallas, Incorporated for Approval of LRIC Study for Additional Bill Copy Charge Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33357.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33357. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33357.

TRD-200605644
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of Lake Dallas, Incorporated for Approval of LRIC Study for 90-Day Promotion of Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33358.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33358. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33358.

TRD-200605645
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of Port Aransas, Incorporated for Approval of LRIC Study for 90-Day Promotion of Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33359.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33359. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33359.

TRD-200605646
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of San Marcos, Incorporated for Approval of LRIC Study for 90-Day Promotion of Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33360.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33360. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33360.

TRD-200605647

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (Commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of Lake Dallas, Incorporated for Approval of LRIC Study for N11 Abbreviated Dialing Codes Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33361.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33361. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33361.

TRD-200605648
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of Port Aransas, Incorporated for Approval of LRIC Study for N11 Abbreviated Dialing Codes Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33362.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33362. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33362.

TRD-200605649

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214

Notice is given to the public of the filing on October 13, 2006, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on October 23, 2006.

Docket Title and Number: Application of CenturyTel of San Marcos, Incorporated. for Approval of LRIC Study for N11 Abbreviated Dialing Codes Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33363.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 33363. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33363.

TRD-200605650
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006



Request for Comments on Amendments to Earnings Report Form

The Public Utility Commission of Texas requests comments on a proposed amended form for the Investor-Owned Utility Transmission and Distribution Service Providers Earnings Report ("Earnings Report Form"). The change to the Earnings Report Form relates to the annual reporting requirement of nuclear decommissioning funds by Collecting Utilities. The proposed amendment would change the instructions in the Earnings Report Form such that the instructions would require Collecting Utilities to report the funding amounts and dates of deposits into the nuclear decommissioning trust funds and, if different, the revenues received from customers for the time intervals corresponding to each deposit and would require this information annually regardless of the status of any rate case before the Commission.

Currently, the Earnings Report Form instructions do not require that Collecting Utilities file earnings information (which includes nuclear decommissioning funding information) if a rate case proceeding is before the commission. However, because the nuclear decommissioning information that Collecting Utilities possess is complementary to nuclear decommissioning information filed annually by Transferee Companies, such information should be filed annually regardless of the status of a rate proceeding. Such information would enable the commission and other interested parties to remain informed on an annual basis about the timing and amounts of deposits in the trusts and thus enable them to participate more effectively in nuclear decommissioning rate-setting proceedings.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P. O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. Comments shall be filed no later than November 10, 2006, under Project Number 33085, *Project to Amend IOU Transmission Service Provider's Instructions for Earnings Report for*

Collecting Utility annual Decommissioning Reporting Requirement. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989.

GENERAL INSTRUCTIONS

1. This report form is prescribed pursuant to Commission Substantive Rule 25.73(b) for the use of all IOU transmission & distribution service providers in the Electric Reliability Council of Texas (ERCOT). The objective of this report is to provide information needed to monitor the earnings and financial condition of all IOU TDSPs. Each TDSP subject hereto will submit its Earnings Report to the Commission in the form and manner herein prescribed.

The reported information should be for the twelve-month period ending December 31. **The Earnings Report shall be filed not later than May 15 of the following year**, as specified in Substantive Rule §25.71(f)(4). Utilities who cannot meet this filing deadline should contact the PUC's Director of Financial Review with as much advance notice as possible. The law allows penalties to be imposed in the event that the rules supported by PURA are not followed.

2. Each IOU TDSP shall file with the Filing Clerk of Central Records at the Commission offices in Austin, Texas, three (3) copies of the printed Earnings Report (less instructions) and any attachments. *Of these three printed copies, two copies shall be bound, and one shall be unbound.* The unbound copy will be used for electronic scanning purposes. **Additionally, IOU TDSPs shall file an electronic version of the information contained in the required schedules and general questions. Please note:** To satisfy the requirement to file an electronic version of the Earnings Report, utilities may submit their report over the Internet using the Commission's FILER program *or* they may submit to the Commission a **floppy diskette** containing the Excel file containing the completed Earnings Report schedules. For utilities choosing to submit their report electronically through the Internet, please visit the PUC web site at <http://www.puc.state.tx.us/interchange/filerindex.cfm> for instructions. For utilities choosing to submit their report on a floppy diskette, note that before the Excel file is submitted to the Commission on diskette, **utilities should process the file with the Commission's FILER program to prepare the Earnings Report schedules for input into the PUC's Interchange filing system.**
3. An IOU TDSP with a rate proceeding pending before the Commission on the due date of the annual Earnings Report or who had a final order issued in such a proceeding within the last twelve months is exempt from filing the report. The Nuclear Decommissioning Collecting Utility, as part of its annual earnings report, shall report the amounts and dates of the deposits into the Nuclear Decommissioning Trust Funds and, if different, the revenues received from customers for the time intervals corresponding to each deposit and shall file this information annually regardless of the status of any rate case at the Commission to which it is a party.
4. Unless otherwise indicated, the information required in this report form will be taken from the accounts and other records prescribed in the Federal Energy Regulatory Commission chart of accounts. The definitions and instructions contained therein will also apply to this report wherever applicable. However, a query or response in this report regarding a practice or transaction is not to be construed as necessarily indicating conformity to accounting or other pertinent regulations.
5. If FERC Form 1 reports are available for the reporting period, they shall be relied upon for purposes of preparing this report.
6. In preparing the report, all instructions should be followed and each question should be answered fully and accurately. The expression "none" or "not applicable" will be given as the answer to any particular inquiry only where the expression truly and completely states the fact. Where a numeric response is required, insert the numeric value "0" as appropriate. All dollar amounts provided in response to questions or schedules should be rounded to the nearest dollar.
7. References to reports of previous periods or to other reports will not be accepted in lieu of information requested in this report. This report does not replace any other report required by the Commission unless substitution is specifically allowed by the Substantive Rules.

8. In accordance with Substantive Rule §25.71(d), all reports submitted to the Commission shall be attested to by an officer or manager of the TDSP under whose direction the report is prepared, or if under trust or receivership, by the receiver or a duly authorized person, or if not incorporated, by the proprietor, manager, superintendent, or other official in responsible charge of the TDSP's operation.
9. Any TDSP filing supplemental attachments to its Earnings Report shall place those items after the schedules and attestation page. The General Instructions to this Earnings Report are not to be submitted for filing. Each copy of the Earnings Report should be organized in the following order: (1) cover sheet; (2) general questions; (3) required schedules (including required supplemental schedules); (4) signature page; and (5) supplemental attachments (if any).
10. Schedules for the printed copies of the report and responses to the general questions should be printed using the Excel spreadsheet file. The Excel files containing the Earnings Report schedules contain print macros to simplify the printing process.
11. If it is necessary to revise any schedule after the initial filing of the report, a new diskette containing all schedules and three (3) printed copies of the report shall be provided. The diskette and all printed copies should be labeled "revised" and include the date of revision. General Question No. 10 shall be completed for all revised reports.

TRD-200605660
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 17, 2006

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Texas Department of Transportation

Notice of Request for Proposal

The Texas Department of Transportation (department) announces a Request for Proposal (RFP) for intercity bus mobility projects funded through the Federal Transit Administration (FTA) §5311(f) intercity bus program. It is anticipated that multiple projects will be selected for state fiscal year 2008. Project selection will be administered by the Public Transportation Division (PTN). Selected projects will be awarded in the form of grants, with payments made for allowable reimbursable expenses or for defined deliverables. The proposer will become a subrecipient of TxDOT.

Purpose: The RFP invites proposals for services to develop, promote, or support intercity bus mobility. The objectives for these proposals are to support the connection between nonurbanized areas and the larger regional or national system of intercity bus service, to support services to meet the intercity travel needs of residents in nonurbanized areas, or to support the infrastructure of the intercity bus network through planning, marketing assistance, and vehicle capital investment. In the process of meeting these objectives, projects are also to support and promote the coordination of public transportation services across geographies, jurisdictions, and program areas. Coordination between nonurbanized and urbanized areas and between client transportation services and other types of public transportation are particular objectives.

Eligible Projects: Eligible types of projects have been defined by the department in accordance with FTA guidelines, other laws and regulations, and in consultation with members of the public transportation and the intercity bus industries. These include projects for vehicle capital, planning, marketing, and operating assistance.

Eligible Applicants: Proposers shall be required to enter into a grant agreement as a subrecipient of the department. Eligible subrecipients include state agencies, local public bodies and agencies thereof, private-nonprofit organizations, operators of public transportation services, and private for-profit operators.

Availability of Funds: In accordance with Transportation Code, Chapter 455, the department currently provides funding for intercity bus mobility projects, funded through FTA §5311(f) intercity bus program. Upon full reauthorization of the federal transit appropriations bill, the total amount available is expected to be about \$4.4 million dollars.

Work Package: All proposals must demonstrate how they address intercity bus mobility needs. The department work package can be used to show a documentation of need, however actual evidence of intercity bus mobility or community needs is preferred. To aid proposers in documenting these needs and developing proposals in response, the department has prepared a work package of intercity bus inventory data, demographics, and thematic maps. The work package is available on the PTN website at http://www.dot.state.tx.us/services/public_transportation/default.htm (located at Intercity Bus, under the Grants Programs section). The work package represents the best available data compiled with professional judgment. Data are derived from multiple sources, some of which are known to be incomplete and inaccurate. Part of the reason for publishing this work package is to provide the intercity bus industry with an opportunity to evaluate the accuracy of this compiled data, propose projects to improve or extend the inventories, and to note discrepancies and suggest corrections.

Review and Award Criteria: Proposals will be evaluated against a matrix of criteria and then prioritized. Subject to available funding, the department is placing no preconditions on the number or on the types of projects to be selected for funding. The department reserves the right to conduct negotiations pertaining to a proposer's initial responses including but not limited to specifications, and prices. An approximate balance in funding awarded to the types of projects, or an approximate geographic balance to selected projects, may be seen as appropriate, depending on the proposals that are received. The department may consider these additional criteria when recommending prioritized projects to the Texas Transportation Commission.

Key Dates and Deadlines:

November 13, 2006 Written questions for the proposal are due at PTN.

November 20, 2006 Written responses to questions posted on PTN website and mailed to all firms who submitted questions.

January 16, 2007 Deadline for receipt of proposals.

February 28, 2007 Target date for the department to complete the evaluation, prioritization, and negotiation of proposals.

May 24, 2007 Presentation of project selection recommendations to the Texas Transportation Commission for action.

August 1, 2007 Target date for all project grant agreements to be executed, with approved scopes of work and calendars of work.

September 1, 2007 Target date for all project grant agreements to become effective.

To Obtain a Copy of the RFP: The RFP will be posted on the PTN Division website at http://www.dot.state.tx.us/services/public_transportation/default.htm, click on Intercity Bus under the Grants Programs section to see the RFP. Proposers with questions relating to the RFP should contact Pat Bittner at pbittne@dot.state.tx.us, or by phone at (512) 416-2863.

TRD-200605655

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: October 17, 2006



Public Notice of SDEIS - Supplemental to the Draft Environmental Impact Statement Roadside Pest Management Program

Public Notice of SEIS: Pursuant to 43 TAC §2.43(c)(9), the Texas Department of Transportation (TxDOT) is advising the public of the availability of the Supplemental to the Draft Environmental Impact Statement (SDEIS) for its Roadside Pest Management Program (PMP). The PMP program is a vital and necessary part of TxDOT's maintenance operations. The PMP program helps to ensure the safety of highway users and TxDOT maintenance personnel; prevents erosion through establishment of permanent vegetative cover; promotes and protects the integrity of the state's transportation investments; promotes and preserves native wildlife habitats and native flora in each of the vegetation regions of Texas to the greatest extent practicable; and promotes the coordinated and efficient use of state resources.

The initial Environmental Impact Statement (EIS) was completed in 1996. Since that time, new techniques, chemicals, and procedures have become available. These new additions to the pest management program improve TxDOT's ability to control pests while minimizing adverse impacts to the environment. An update is also necessary in order to fully disclose and update the public on the environmental impacts of the pest management program. The SDEIS will focus on updating the chemicals utilized by TxDOT district personnel and the techniques used in their application. In addition, the SDEIS will update other means of pest control such as mechanical, biological, and cultural treatments.

Public hearings will be held for the proposed project in five (5) regions of Texas. Notices of the public hearings will be published in newspapers of general circulation in multiple regions of Texas at least 30 days prior to the hearings, and again 10 days prior to the hearings. Public hearings will be held at the following locations:

TxDOT's Riverside Complex at 200 E. Riverside Drive, Austin, Texas on November 27, 2006 from 9:00 a.m. to 12:00 p.m. in Building 200, Room 1A.1.

TxDOT's Dallas District Office at 4777 E. Highway 80, Mesquite, Texas on November 28, 2006 from 9:00 a.m. to 12:00 p.m. in the Ellis Room.

TxDOT's District Office at 8350 Eastex Freeway, Beaumont, Texas on November 30, 2006 from 9:00 a.m. to 12:00 p.m. in the District Assembly Room.

TxDOT's District Office at 600 W. U.S. 83 Freeway, Pharr, Texas on December 5, 2006 from 9:00 a.m. to 12:00 p.m. in the District Conference Room.

TxDOT's District Office at 135 Slaton Road, Lubbock, Texas on December 7, 2006 from 9:00 a.m. to 12:00 p.m. in the District Training Center Bluebonnet Room.

To ensure that the full range of issues related to the program is addressed and all significant concerns are identified, comments and suggestions are invited from all interested parties. Comments or questions related to the program and/or the environmental process should be directed to Dennis K. Markwardt, Maintenance Division, Texas Department of Transportation, 125 E. 11th Street, Austin, Texas 78701. Mr. Markwardt can be reached by telephone at (512) 416-3093 or e-mail at dmarkt@dot.state.tx.us. Any request to purchase paper copies or electronic files of the SDEIS should be made to Mr. Markwardt at the above mentioned address. Public viewing of the SDEIS during the public comment period will be available at each TxDOT District Office and at TxDOT's Maintenance Division Office located at 150 E. Riverside Drive, Building 150, Fifth Floor of the Maintenance Division, Austin, TX. An electronic version of the SDEIS may be downloaded from the TxDOT website at www.dot.state.tx.us/publications/maintenance.htm. All comments must be submitted prior to 5:00 p.m. on January 22, 2007.

TRD-200605654

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: October 17, 2006



University of Houston System

Consultant Contract Award Notice

In compliance with the provisions of Chapter 2254, Subchapter B, Texas Government Code, The University of Houston System furnishes this notice of consultant contract award. The consultant will provide services in the evaluation and readiness to undertake a major fundraising effort. Requests for proposals were filed in the August 18, 2006, issue of the *Texas Register* (31 TexReg 6550).

The contract was awarded to Grenzebach Glier & Associates, Inc., 401 North Michigan Avenue, Suite 2800, Chicago, Illinois 60611, for a total amount of \$100,000.

The beginning date of the contract is October 16, 2006 and the ending date is October 15, 2007.

For further information, please call (713) 743-8901.

TRD-200605681

Brian S. Nelson
Executive Director and Associate General Counsel
University of Houston System
Filed: October 18, 2006

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Texas Water Development Board

Applications Received

Pursuant to the Texas Water Code, Section 6.195, the Texas Water Development Board provides notice of the following applications received by the Board:

Brookesmith Special Utility District, P.O. Box 27, Brownwood, Texas 76801, received July 31, 2006, application for financial assistance in the amount of \$2,500,000 from the Rural Water Assistance Fund.

City of Galena Park, P.O. Box 46, Galena Park, Texas 77547-0046, received May 24, 2006, application for financial assistance in the amount of \$7,210,000 from the Texas Water Development Funds.

Lower Valley Water District, 1557 FM Road 1110, P.O. Box 909, Clint, Texas 79836, received August 30, 2006, application for financial assistance in the amount of \$20,600,000 from the Clean Water State Revolving Fund.

City of Liberty Hill, P.O. Box 1920, Liberty Hill, Texas 78642, received July 7, 2006, application for financial assistance in the amount of \$8,130,000 from the Clean Water State Revolving Fund.

Atascosa Rural Water Supply Corporation, P.O. Box 9, 10882 Jarratt Road, Atascosa, Texas 78002, received August 8, 2006, application for financial assistance in the amount of \$1,000,000 from the Rural Water Assistance Fund.

City of Houston, P.O. Box 1562, Houston, Texas 77251-1562, received September 7, 2006, application for financial assistance in the amount of \$23,290,000 from the Clean Water State Revolving Fund.

Millersview-Doole Water Supply Corporation, P.O. Box 130, Millersview, Texas 76862, received July 7, 2006, application for

financial assistance in the amount of \$7,000,000 from the Rural Water Assistance Fund.

Tarrant Regional Water District, 800 East Northside Drive, Fort Worth, Texas 76102 received October 4, 2006, application for financial assistance in an amount not to exceed \$200,000 from the Research and Planning Fund.

Jefferson County Drainage District No. 6, P.O. Box 20078, Beaumont, Texas 77720, received February 27, 2006, application for financial assistance in an amount not to exceed \$3,562,500 from the Flood Mitigation Assistance Planning Grant.

Jefferson County Drainage District No. 6, P.O. Box 20078, Beaumont, Texas 77720, received February 27, 2006, application for financial assistance in an amount not to exceed \$2,437,500 from the Flood Mitigation Assistance Planning Grant.

Jefferson County Drainage District No. 6, P.O. Box 20078, Beaumont, Texas 77720, received February 27, 2006, application for financial assistance in an amount not to exceed \$975,000 from the Flood Mitigation Assistance Planning Grant.

Jefferson County Drainage District No. 6, P.O. Box 20078, Beaumont, Texas 77720, received March 13, 2006, application for financial assistance in an amount not to exceed \$658,500 from the Flood Mitigation Assistance Planning Grant. Jefferson County Waterway and Navigation District, P.O. Box 778, Nederland, Texas 77627, received May 23, 2006, application for financial assistance in an amount not to exceed \$4,538,186 from the Flood Mitigation Assistance Planning Grant.

TRD-200605575
Wendall Corrigan Braniff
General Counsel
Texas Water Development Board
Filed: October 12, 2006

How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 30 (2005) is cited as follows: 30 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "30 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 30 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in an .html

version as well as a .pdf (portable document format) version through the Internet. For website subscription information, call the Texas Register at (800) 226-7199.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>. The following companies also provide complete copies of the TAC: Lexis-Nexis (1-800-356-6548), and West Publishing Company (1-800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 21, April 15, July 8, and October 7, 2005). If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).